

MINUTES
BOARD OF SUPERVISORS
COUNTY OF YORK

Regular Meeting
May 17, 2005

6:00 p.m.

Meeting Convened. A Regular Meeting of the York County Board of Supervisors was called to order at 6:00 p.m., Tuesday, May 17th, 2005, in the Board Room, York Hall, by Chairman James S. Burgett.

Attendance. The following members of the Board of Supervisors were present: Walter C. Zarembo, Sheila S. Noll, Kenneth L. Bowman, James S. Burgett, and Thomas G. Shepperd, Jr.

Also in attendance were James O. McReynolds, County Administrator; J. Mark Carter, Assistant County Administrator; and James E. Barnett, County Attorney.

Invocation. Richard Holmes from Rising Sun Baptist Church gave the invocation.

Pledge of Allegiance to the Flag of the United States of America.

HIGHWAY MATTERS

Mr. Jim Brewer, Residency Administrator, Virginia Department of Transportation (VDOT), updated the Board on matters concerning the roadways and indicated he would provide the Board with a drainage list in the near future. He mentioned that the plant mix schedule had begun on Showalter Road. He stated the signal light at Routes 646 and 603 was scheduled for installation around August 15, and Route 782 was 50 percent complete, with completion to take place in 2005. He discussed the paving of Interstate 64 that was scheduled to be completed in 2007.

Mr. Zarembo questioned the widening of Interstate 64 in the Lightfoot area.

Mr. Brewer stated he had no knowledge of a widening project in that area at this time.

Mr. Shepperd stated that VDOT was doing a tremendous job in the aggressive role it had taken, including repair work on Polaris Drive and Heaven's Way. He asked Mr. Brewer to look into the repair of large potholes near Lakeland Crescent and the Meadowlake Farms area.

Mr. Bowman questioned the Interstate 64 paving contract and asked what portion of the interstate it would encompass.

Mr. Brewer noted the paving would take place in the westbound lane, just below the Route 199 interchange near New Kent. After that area is complete, he stated work would start back in the eastbound lane.

Mr. Bowman reported that tractor trailers had been parking alongside the main road in Victory Industrial Park, and he asked if this was VDOT's responsibility.

Mr. Brewer stated it was the responsibility of VDOT, and they had involved the police this past week.

Mrs. Noll criticized what was happening to Interstate 64, and she noted that the widening was part of a referendum that had once failed. She stated she thought it was off the books and asked Mr. Brewer if anything had come by him.

Mr. Brewer responded that he had not seen anything.

PRESENTATIONS**INTRODUCTION OF NEW MEMBERS TO YORK COUNTY BOARDS AND COMMISSIONS**

Chairman Burgett introduced and welcomed the following individuals as the newest Boards and Commissions appointees:

Mr. Bob Groves	Stormwater Advisory Committee
Mr. William Hurst	Board of Building Code Appeals.

Mr. Burgett then presented the gentlemen each with a Boards and Commissions Handbook and York County pin.

OUTSTANDING VOLUNTEER AWARD

Chairman Burgett noted recognized Mr. Junior Coxton for his volunteer efforts and achievements in chairing the Route 17 Revitalization Committee and presented him with an engraved plate recognizing the occasion.

ROUTE 17 REVITALIZATION COMMITTEE

Chairman Burgett acknowledged the accomplishments of the Route 17 Revitalization Committee in its efforts to improve the appearance of the businesses along that roadway.

Vice Chairman Zaremba then read aloud and presented a bound resolution of commendation to the following members of the committee:

H. Junior Coxton, Chairman	Nick Barba
Cindy Barbeau	Bradley Berrane
Dana Burgett	Donald Davis
Ralph English	Paul Garman
Alex Llorente	Vernard Lockwood
Carl Loveland	Albert Meadows
Tim Meyer	Bruce Peterson

OUTSTANDING YOUTH AWARDS

Chairman Burgett commended the following award recipients on their accomplishments, and presented them with bound and sealed copies of their respective resolutions, as well as an engraved Jefferson Cup recognizing their achievements:

Ieshia Smith	Outstanding Youth for Courage
Ashley Tignor	Outstanding Youth for Community Service
Michelle Principino	Outstanding Youth for Compassion
David Horres	Outstanding Youth for Overall Achievement

HOUSING PRESENTATION

Mr. Frank Rogers, Chief of Housing and Neighborhood Revitalization, gave a presentation on the programs and services offered through the County's Department of Community Services.

He provided some background history on the Housing Division and highlighted areas such as rental assistance, average rents, costs to the County, programs under local rehabilitation, homeownership counseling, affordable housing, and fee assistance programs. He thanked the Board for its current and ongoing support.

Meeting Recessed: At 6:50 p.m. Chairman Burgett declared a short recess.

Meeting Reconvened: At 7:00 p.m. the meeting was reconvened in open session by order of the Chair.

PUBLIC FORUM

PROPOSAL FOR VICTORY BOULEVARD ACCESS

Chairman Burgett provided some background on proposed Resolution R05-103 to obtain approval from the Commonwealth Transportation Board for a right-in/right-out driveway access break on Victory Boulevard that was presented at the Board's May 3 meeting. He explained that the Board was divided on this issue, thereby necessitating the need for a Public Forum at this time.

Chairman Burgett then called to order a Public Forum on the proposal for a right-in/right-out access break on Victory Boulevard which was duly advertised.

Mr. Lamont Myers, 108 Pheasant Watch, representing Ms. Josephine Dozier, one of the property owners, stated the Victory Boulevard/Route 17 intersection was a key intersection in the new retail hub for the lower County. He pointed out the location offered a great opportunity for new development, and the development proposed was a quality development. He stated the project would bring a major corporation to the county, and that it was an opportunity to dramatically increase traffic flow through Victory Boulevard at peak times. He stated the proposal was a wonderful opportunity for the County to get the road work accomplished at private expense, and he encouraged the Board's support.

Mr. Alonzo Bell, Randolph Development, representing Dorothy Bryant, property owner, conveyed Mrs. Bryant's strong support for this proposal, pointing out that the property was zoned General Business and could be developed by right. He stated that the traffic-calming measure would be aesthetically pleasing and more beneficial to the tax base of the County. He asked the County to strongly consider the proposal.

Mr. Bill Bowditch, 74 James River Lane, a property owner, stated that the County would continue to grow and that the intersection congestion would worsen as all the property surrounding the intersection eventually became developed. He stated that a retailer had agreed to make the improvements with private funds and pointed out that VDOT did not have the funds to make the necessary improvements. He asked that the proposal be approved.

Mr. Bill Cashman, 2777 Bendix Road, Suite 500, Virginia Beach, stated he had conducted the traffic impact analysis for the proposed access and development of the site. He indicated professional guidelines were followed which met VDOT's recommendations, and the proposal would be the best use for the subject property. He added that an additional lane on Route 171 would provide improvements that would more than offset the adverse impacts generated by the traffic. He asked the Board to support this application.

Mr. Charlie Newbaker, 3312 Sassafras Road, Gloucester, stated he was the surveyor and site plan preparer on the project for Tribek Properties. He provided a description of the proposed project and stated that the storm drainage would be satisfied in the plan preparation, and any existing landscape would be relocated or replaced. He suggested that no closures would take place during peak hours while under construction.

Mr. Blanton Hamilton, 1700 Brandon Road, Charlotte, North Carolina, representative of Tribek Properties, explained that the plan would combine one of the three driveways into a single access point. He stated the proposal would provide roughly 2,000 feet of additional lane that would provide a third, single additional lane. He spoke of the traffic improvements, and the unique opportunity to provide the improvements with private funds.

Mr. William Harris, 209 Rock Creek Court, expressed his concerns over the already congested intersection. He stated he was in favor of Walgreen's building in the area, but he was concerned about the entryway at Victory Boulevard and suggested the entrance be from Route 17. He mentioned that Walgreen's in Denbigh has only one entrance way, and he asked the Board not to support the application.

Mr. David Griffiths, 401 Rock Creek Court, encouraged the Board not to support the subject proposal fearing that it would set a precedent. He voiced concerns over the hurricane evacuation routes, stating it would add more congestion to an already congested area. He referred to the article in Citizen News that indicated citizens were concerned with green space and empty buildings in the County. He asked that the Board not support the proposal.

There being no one else present who wished to speak concerning the subject proposal, Chairman Burgett closed the public forum.

Mr. Shepperd thanked the citizens who came out this evening and those who provided input to the Board through its website. He acknowledged that the County had traffic and congestion problems in that area, and pointed out if something is built that was allowed by right, traffic would increase anyway. He noted that more development would occur in the area creating even more traffic. He stated if the Board were to approve the application, it would be a better means of addressing the traffic congestion. He stated this was a solution to address the traffic issue now, and he would support the resolution.

Mr. Bowman stated he also appreciated the citizens' input. He explained he was extremely hesitant on this until he saw a presentation on the proposal, and he noted that most developers do not offer to fund road improvements. He stated that most of those properties were general business and cited examples of what could take place in that area by right. He felt that the people already traveling the road would be the ones to shop Walgreen's, rather than people coming from other localities. Mr. Bowman suggested that approval of this proposal could set a precedent for future developers to proffer more.

Mr. Zarembo explained that the Comprehensive Plan set the stage as to how the County would grow, and he pointed out that citizens have been asked to participate in the planning of the Comprehensive Plan. He noted that the area was zoned for commercial development, and he acknowledged that a precedent could be set by allowing a developer to fund road improvements. Mr. Zarembo stated he was convinced that an investment of \$1 million for a third lane would improve the current traffic situation, and he would support the development.

Mrs. Noll stated the developer already had an access to Route 17 by right. She stated if the developer provided a right-in/right-out on Victory Boulevard, she feared other developers would want the same thing. She stated that the level of service would remain the same in the evening, and she pointed that Route 17 and Victory Boulevard already ranked second in all the accidents in the County with most accidents occurring in the evening. Mrs. Noll stated the County should learn from its mistakes, referring to Wal Mart on Route 17. She pointed out that the proposal would not save the citizens money since the County did not pay for its roads because it was the State's responsibility. She mentioned that she had collected comments from over 154 citizens with the majority not being in support of the proposal. Mrs. Noll stated the access would not increase the quality of life but would diminish it instead, and she would not support the proposal.

Chairman Burgett recognized that the property could be developed by right, but he did not want the right-in/right-out access. He stated it set a precedent and, when the third lane was put in, it would not decrease the amount of cars; it would increase the number between Routes 17 and 134. He mentioned that the email comments he had received were 29 against and 11 for the entrance. He stated he wanted to improve economic development, but he did not see

the advantage of allowing the right-in/right-out that may set a precedent for all other areas, and he would not support this action.

Mr. Shepperd then moved the adoption of proposed Resolution R05-103 that reads:

A RESOLUTION TO SUPPORT THE REQUEST OF TRIBEK PROPERTIES TO OBTAIN APPROVAL FROM THE COMMONWEALTH TRANSPORTATION BOARD FOR A RIGHT-IN/RIGHT-OUT DRIVEWAY ACCESS BREAK ON THE WESTBOUND LANES OF ROUTE 171 (VICTORY BOULEVARD) APPROXIMATELY 400 FEET EAST OF ROUTE 17

WHEREAS, Mid-Atlantic Commercial Real Estate, on behalf of Tribek Properties, has approached the York County Board of Supervisors to seek the Board's support of Tribek's request to the Commonwealth Transportation Board for authorization of a break in the limited access status of Route 171 (Victory Boulevard); and

WHEREAS, Tribek Properties, through its agent, has represented to the Board of Supervisors that it has plans to develop an assemblage of land located on the north side of Route 171 into a project that will include a drugstore and a sit-down restaurant or a hotel, all of which are permitted uses under the property's current GB-General Business zoning classification; and

WHEREAS, Tribek Properties has also represented that its intention to develop the subject property is dependent on obtaining approval from the Commonwealth Transportation Board for installation of a right-in/right-out commercial entrance on Route 171 (Victory Boulevard) to serve the proposed development; and

WHEREAS, to facilitate the flow of traffic on Route 171 Tribek Properties has represented to the Board of Supervisors that it would install, at its expense, approximately 1,970 linear feet of roadway, the purpose of which is to create a third westbound travel lane on Route 171, beginning at a point approximately 300 feet east of the Route 134/Route 171 intersection and extending to the point where the existing third through/left-turn lane begins on the east side of the Route 17/Route 171 intersection; and

WHEREAS, such construction would be in addition to such turning lanes/acceleration lanes as are required of Tribek Properties by the Virginia Department of Transportation to serve the development's entrance on Route 17 (also a right-in/right-out) and on Route 171, if approved by the Commonwealth Transportation Board, but Tribek has determined that the Route 171 Improvements would serve its interests and, accordingly, has volunteered to construct the Route 171 improvements solely at its expense; and

WHEREAS, the Board of Supervisors has carefully considered the developer's proposal and determined that it is a request worthy of support, subject to conditions and agreements sufficient to guarantee the prospective developer implements the improvements to Route 171 that have been pledged;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this the 17th day of May, 2005, that it does hereby endorse the request of Tribek Properties to obtain authorization from the Commonwealth Transportation Board for a limited access break that would allow the installation of a right-in/right-out driveway on the westbound lanes of Route 171 (Victory Boulevard) approximately 400 feet east of Route 17.

BE IT FURTHER RESOLVED that the Board's endorsement of this request is contingent on, and shall not be transmitted to the Commonwealth Transportation Board unless and until, the prospective developer's execution of an agreement with the County, secured by surety in the form of a letter of credit, cash, or a certified check, and in an amount determined acceptable by the County Administrator, to guarantee the timely construction and completion of the proposed Route 171 improvements.

On roll call the vote was:

May 17, 2005

Yea: (3) Zaremba, Bowman, Shepperd
Nay: (2) Noll, Burgett

PUBLIC HEARINGS

REQUEST FOR TAX EXEMPTION

Ms. Carol White, Director of Financial and Management Services, gave a presentation on proposed Ordinance No. 05-14 to grant tax exemption status for the Queens Lake Community Association.

Mr. Shepperd asked if particular parcels could be removed from the exemption.

Mr. Barnett indicated that the organization could only be exempt as an entity, not by separate parcels.

Mr. Zaremba asked if individuals outside of the Queens Lake Community paid a fee when using the facilities.

Mr. Matt Hogge, representative of Queens Lake Community Association, thanked the Board for considering this application and discussed the facility uses of the community.

Mr. Shepperd asked how much of Queens Lake was used to support community activities for citizens outside of Queens Lake.

Mr. Hogge estimated that one-half of the people that use the marina are from the outside. He stated the swim team had members from both outside and inside Queens Lake, and the pool was used for meets, as well as the facilities in the clubhouse.

Discussion ensued concerning the predominant use the Queens Lake facilities.

Chairman Burgett called to order a public hearing on Ordinance No. 05-14 that was duly advertised as required by law and is entitled:

AN ORDINANCE GRANTING EXEMPTION FROM REAL AND
PERSONAL PROPERTY TAXATION PURSUANT TO CODE OF
VIRGINIA SECTION 58.1-3651 TO THE QUEENS LAKE COMMU-
NITY ASSOCIATION, INC., A VIRGINIA NON-PROFIT CORPORA-
TION

There being no one present who wished to speak concerning the subject ordinance, Chairman Burgett closed the public hearing.

Mr. Shepperd stated he had a problem exempting an organization where a portion of the property was not accessible to the public. He stated these type of organizations needed to have something in its rules that allowed public access to exempt property.

Mr. Zaremba asked if the Board would consider adoption the ordinance with the modification of removing the lake.

Mr. Barnett stated a factual finding would have to be made that some parts of the property did not meet the criteria. He suggested that if it was the Board's determination that certain property owned by the organization did not meet the criteria deemed suitable for tax exemption, it could be delineated by granting the exemption for certain portions of the property.

Discussion ensued over the possibility of delineating portions of the property.

Mr. Barnett stated the organization must use its property for charitable, benevolent purposes, and his interpretation of the statute was that if some of the property was not being used for

permissible, tax-exempt purpose, the exemption did not have to be granted to that piece of property.

Mr. Shepperd suggested a list of the property and its uses should be provided.

Mr. Zaremba then moved to table proposed Ordinance No. 05-14:

On roll call the vote was:

Yea:	(5)	Noll, Bowman, Shepperd, Zaremba, Burgett
Nay:	(0)	

SALARIES FOR MEMBERS OF THE BOARD OF SUPERVISORS

Mr. McReynolds briefly reviewed proposed Ordinance No. 05-10 to increase the salaries of members of the York County Board of Supervisors effective July 1, 2005, and proposed Resolution R05-81 to appropriate funds for the salaries of the Board of Supervisors.

Chairman Burgett called to order a public hearing on Ordinance No. 05-10 that was duly advertised as required by law and is entitled:

AN ORDINANCE TO ESTABLISH THE SALARIES OF MEMBERS
OF THE YORK COUNTY BOARD OF SUPERVISORS AT THE SUM
OF \$9,000.00 PER ANNUM, PLUS AN ADDITIONAL SALARY OF
\$1,800.00 FOR THE BOARD CHAIRMAN AND AN ADDITIONAL
SUM OF \$1,200.00 FOR THE BOARD VICE-CHAIRMAN, EFFEC-
TIVE JULY 1, 2005

There being no one present who wished to speak concerning the subject ordinance, Chairman Burgett closed the public hearing.

Mr. Bowman then moved the adoption of proposed Ordinance R05-10 that reads:

AN ORDINANCE TO ESTABLISH THE SALARIES OF MEMBERS
OF THE YORK COUNTY BOARD OF SUPERVISORS AT THE SUM
OF \$9,000.00 PER ANNUM, PLUS AN ADDITIONAL SALARY OF
\$1,800.00 FOR THE BOARD CHAIRMAN AND AN ADDITIONAL
SUM OF \$1,200.00 FOR THE BOARD VICE-CHAIRMAN, EFFEC-
TIVE JULY 1, 2005

BE IT ORDAINED by the York County Board of Supervisors this 17th day of May, 2005, that the salaries of members of the York County Board of Supervisors be established at the sum of \$9,000.00 per annum, plus an additional sum of \$1,800.00 for the Board Chairman and an additional sum of \$1,200.00 for the Board Vice-Chairman, effective July 1, 2005.

On roll call the vote was:

Yea:	(4)	Bowman, Shepperd, Zaremba, Burgett
Nay:	(1)	Noll

Mr. Shepperd then moved the adoption of proposed Resolution R05-81 that reads:

A RESOLUTION TO APPROPRIATE FUNDS FOR THE PAYMENT
OF SALARIES TO MEMBERS OF THE BOARD OF SUPERVISORS

WHEREAS, through the adoption of Ordinance No. 05-10, the salaries of the members of the Board of Supervisors were increased from \$7,000 to \$9,000; the salary of the Board Chairman was increased from \$8,800 to \$10,800; and the salary of the Board Vice-Chairman was increased from \$8,200 to \$10,200, effective on July 1, 2005; and

May 17, 2005

WHEREAS, the appropriations approved for Fiscal Year 2005 were based on the lower amount and in order to provide sufficient funds for the new salaries it is necessary to appropriate additional funds;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this 17th day of May, 2005, that additional funding of \$10,000 be, and hereby is, appropriated in the General Fund for the purpose referenced above.

On roll call the vote was:

Yea:	(4)	Bowman, Shepperd, Zaremba, Burgett
Nay:	(1)	Noll

PROHIBITION OF THROUGH TRUCKS

Mr. Carter gave a presentation on proposed Resolution R05-98 to request that the Virginia Department of Transportation prohibit through truck traffic on Coventry Boulevard, Owen Davis Boulevard, Ferrier Place, Blacksmith Arch, Patriot Way, Militia Court, and Liberty Drive.

Chairman Burgett called to order a public hearing on Resolution R05-98 that was duly advertised as required by law and is entitled:

A RESOLUTION TO REQUEST THE VIRGINIA DEPARTMENT OF
TRANSPORTATION AND COMMONWEALTH TRANSPORTATION
BOARD TO ESTABLISH A PROHIBITION OF THROUGH TRUCK
TRAFFIC ON CERTAIN STREETS IN THE COVENTRY AND PA-
TRIOT VILLAGE SUBDIVISIONS

There being no one present who wished to speak concerning the subject resolution, Chairman Burgett closed the public hearing.

Mrs. Noll then moved the adoption of proposed Resolution R05-98 that reads:

A RESOLUTION TO REQUEST THE VIRGINIA DEPARTMENT OF
TRANSPORTATION AND COMMONWEALTH TRANSPORTATION
BOARD TO ESTABLISH A PROHIBITION OF THROUGH TRUCK
TRAFFIC ON CERTAIN STREETS IN THE COVENTRY AND PA-
TRIOT VILLAGE SUBDIVISIONS

WHEREAS, the Coventry Homeowners Association has requested that consideration be given to the establishment of a "No Through Trucks" restriction on the following routes:

- Route 1763 (Coventry Boulevard) and Route 1750 (Owen Davis Boulevard) between Route 17 and Route 134; and
- Route 1772 (Ferrier Place), Route 1770 (Blacksmith Arch), Route 1773 (Patriot Way), Route 1775 (Militia Court) and Route 1776 (Liberty Drive) between Route 600 (Big Bethel Road) and Route 1750 (Owen Davis Boulevard)

WHEREAS, in accordance with the "Guidelines for Considering Requests for Restricting Through Trucks on Secondary Highways" established by the Commonwealth Transportation Board, the Board of Supervisors must formally request the establishment of such restrictions subsequent to conducting a duly advertised public hearing; and

WHEREAS, the Board of Supervisors has reviewed this proposal in light of the criteria established by the Virginia Department of Transportation pertaining to the eligibility of streets for such restrictions and is of the opinion that a sufficient number of the required criteria can be met; and

WHEREAS, the designated alternate routes of travel in lieu of the restricted routes would be:

- Route 17 at Coventry Boulevard to Route 171 (Victory Boulevard) to Route 134 (Hampton Highway) at the Route 1750 (Owen Davis Boulevard) intersection; and
- Route 1750 (Owen Davis Boulevard) from either the Route 1772 (Ferrier Place) or Route 1770 (Blacksmith Arch) intersections to Route 134 (Hampton Highway) to Route 600 (Big Bethel Road) at the Route 1776 (Liberty Drive) intersection; and

WHEREAS, in accordance with the required VDOT procedures, the Board has conducted a duly advertised public hearing concerning this proposal;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors, this the 17th day of May, 2005, that the Virginia Department of Transportation and Commonwealth Transportation Board be, and they are hereby, requested to consider the establishment of a "No Through Trucks" prohibition on the following routes:

- Route 1763 (Coventry Boulevard) and Route 1750 (Owen Davis Boulevard) between Route 17 and Route 134; and
- Route 1772 (Ferrier Place), Route 1770 (Blacksmith Arch), Route 1773 (Patriot Way), Route 1775 (Militia Court) and Route 1776 (Liberty Drive) between Route 600 (Big Bethel Road) and Route 1750 (Owen Davis Boulevard);

BE IT FURTHER RESOLVED that the following be considered and designated as the alternate routes for through truck traffic:

- Route 17 at Coventry Boulevard to Route 171 (Victory Boulevard) to Route 134 (Hampton Highway) at the Route 1750 (Owen Davis Boulevard) intersection; and
- Route 1750 (Owen Davis Boulevard) from either the Route 1772 (Ferrier Place) or Route 1770 (Blacksmith Arch) intersections to Route 134 (Hampton Highway) to Route 600 (Big Bethel Road) at the Route 1776 (Liberty Drive) intersection; and

BE IT STILL FURTHER RESOLVED that the Board of Supervisors commits that it will request the York County Sheriff's Department to monitor and enforce compliance with said restrictions should they be approved and established by the Virginia Department of Transportation and Commonwealth Transportation Board.

On roll call the vote was:

Yea: (5) Shepperd, Zaremba, Noll, Bowman, Burgett
Nay: (0)

APPLICATION NO. ZT-92-05, YORK COUNTY BOARD OF SUPERVISORS

Mr. Carter gave a presentation on proposed Ordinance No. 05-13 to make housekeeping amendments to various sections of the Zoning Ordinance. He stated the Planning Commission considered the application and forwarded it to the Board of Supervisors with a recommendation of approval, and staff recommended approval of the application through the adoption of proposed Ordinance No. 05-13.

Chairman Burgett expressed his concerns regarding the greenbelt and asked about the size of the greenbelt area in the Route 17 and Old York-Hampton Highway area.

Mr. Carter indicated the proposed greenbelt along Ft. Eustis Boulevard extended would be 35 feet, and it would not go beyond Old York-Hampton. He stated it would not apply to Old York-Hampton itself—only to the new Ft. Eustis Boulevard extension behind Patriot Square.

Chairman Burgett stated he did not understand the logic in the amount of green space indicated, and he stated he would like to discuss the issue more in depth, or perhaps remove the greenbelt item.

Mr. Bowman mentioned the greenbelt issue was addressed during the Comprehensive Planning process and noted that buffering and greenspace would be discussed in the Plan. He stated it would go to the Planning Commission and then come before the Board for review in September. He indicated he was in agreement with Chairman Burgett about removing that item from the ordinance.

Mr. Carter suggested they pull the section dealing with the establishment of that particular greenbelt, i.e., along Ft. Eustis Boulevard Extended.

Chairman Burgett called to order a public hearing on Application No. ZT-92-05 that was duly advertised as required by law. Proposed Ordinance No. 05-13(R) is entitled:

AN ORDINANCE TO APPROVE APPLICATION NO. ZT-92-05, WHICH PROPOSES AMENDMENT OF THE YORK COUNTY ZONING ORDINANCE (CHAPTER 24.1, YORK COUNTY CODE) BY REVISING, ADDING AND DELETING VARIOUS SECTIONS TO UPDATE, CLARIFY AND SUPPLEMENT THE PROVISIONS IN ACCORDANCE WITH GOOD ZONING PRACTICE AND WHICH ALSO PROPOSES THE ESTABLISHMENT OF A NEW CHAPTER—CHAPTER 23.2—OF THE YORK COUNTY CODE TO CONTAIN THE COUNTY'S CHESAPEAKE BAY PRESERVATION AREA REGULATIONS

There being no one present who wished to speak concerning the subject application, Chairman Burgett closed the public hearing.

Mr. Shepperd then moved the adoption of proposed Ordinance No. 05-13(R) that reads:

AN ORDINANCE TO APPROVE APPLICATION NO. ZT-92-05, WHICH PROPOSES AMENDMENT OF THE YORK COUNTY ZONING ORDINANCE (CHAPTER 24.1, YORK COUNTY CODE) BY REVISING, ADDING AND DELETING VARIOUS SECTIONS TO UPDATE, CLARIFY AND SUPPLEMENT THE PROVISIONS IN ACCORDANCE WITH GOOD ZONING PRACTICE AND WHICH ALSO PROPOSES THE ESTABLISHMENT OF A NEW CHAPTER—CHAPTER 23.2—OF THE YORK COUNTY CODE TO CONTAIN THE COUNTY'S CHESAPEAKE BAY PRESERVATION AREA REGULATIONS

WHEREAS, the York County Board of Supervisors has sponsored Application No. ZT-92-05 to allow consideration of various amendments intended to update, clarify and supplement the provisions of the Zoning Ordinance in accordance with good zoning practice; and

WHEREAS, said application also proposes that the Chesapeake Bay Preservation Area regulations be removed from the Zoning Ordinance and established as a separate stand-alone chapter of the York County Code

WHEREAS, said application has been referred to the York County Planning Commission in accordance with applicable procedure; and

WHEREAS, the Planning Commission has conducted a duly advertised public hearing on this application and has recommended approval;

WHEREAS, the Board of Supervisors has carefully considered the public comments and recommendations of the Planning Commission and staff with respect to this application;

NOW, THEREFORE, BE IT ORDAINED by the York County Board of Supervisors this the 17th day of May, 2005, that Application No. ZT-92-05 be, and it hereby is, approved to amend the York County Zoning Ordinance (Chapter 24.1, York County Code) to read as follows:

ARTICLE I. IN GENERAL

Sec. 24.1-104. Definitions.

Catering kitchen. A facility in which food is prepared and cooked in quantity and then transported from the premises by the caterer for off-premises serving and consumption at special events, receptions, parties or similar activities.

Child care center. A facility operated for the purpose of providing care, protection and guidance to a group of children separated from their parents or guardians during a part of the day only, and operated in accordance with the provisions of section 63.2-1700, et seq., Code of Virginia.

Dwelling, modular. A type of single-family detached dwelling unit which is constructed in units which are movable, but not designed for regular transportation on highways, and which are designed to be constructed on and supported by a permanent foundation and not by a chassis (i.e., supporting rails) permanently attached to the structure and which meet the requirements of the Virginia Uniform Statewide Building Code. Structures constructed in accordance with the terms of the Virginia Industrialized Building Safety Regulations shall not be deemed "modular units" if they include a permanently attached chassis (i.e., supporting rails). If such chassis system can be removed and the unit can be supported by a permanent foundation meeting the requirements of the Virginia Uniform Statewide Building Code, then it shall be deemed a "modular unit."

Dwelling, multi-family. A building or building arrangement consisting of two (2) or more dwelling units on a single lot.

Dwelling unit. A single unit of one or more rooms providing complete, independent living facilities for one family, including permanent provisions for living, sleeping, cooking, and sanitation.

< *Dwelling, accessory unit/ apartment.* A separate and complete housekeeping unit which provides complete and independent living, sleeping, and sanitation facilities, and which may or may not include permanent cooking facilities. Such unit may be contained within or outside of a primary residence but is clearly secondary to a primary single-family dwelling located on the same lot. When in a detached structure, the presence of a habitable room or rooms, as defined by the Virginia Uniform Statewide Building Code, including a living area and a bathroom with sink, toilet and tub or shower shall be considered to constitute an accessory apartment. When such habitable space is a part of the principal structure on the property, the presence of an independent entrance, a bathroom with sink, toilet, and tub/shower, and physical separation (by walls or floors) from the principal residence shall be deemed to constitute an accessory apartment.

< *Dwelling, single-family attached.* A row or combination of at least two one-family dwelling units constructed in accordance with the terms of the Virginia Uniform Statewide Building Code, with each unit having separate outside access, each unit separated from any other unit by one or more common fire-resistant walls, and each unit located on a

separate lot. The term "single-family attached" includes the following types of dwellings:

- *Duplex.* A one-family dwelling unit attached to one other one-family dwelling unit by a common vertical fire-resistant wall with each dwelling unit located on a separate lot.
- *Multiplex.* A one-family dwelling unit in a combination (back-to-back, side-to-side, or back-to-side) of at least three such units with each unit having at least two exterior walls, each unit separated from any other by common fire-resistant walls, and each unit located on a separate lot.
- *Townhouse.* A type of multiplex unit, in a row of at least three such units, with each having its own front and rear or side access to the outside, each unit separated from any other by common fire-resistant walls, and each unit located on a separate lot.

< *Dwelling, single-family detached.* A one-family dwelling unit which is surrounded on all sides by yards or other open space located on the same lot and which is not attached to any other dwelling by any means. Such units shall be constructed in accordance with the terms of the Virginia Uniform Statewide Building Code and may include "modular units" if consistent with the definition and standards contained in this chapter.

Lot. A unit, division, or piece of land, generally created as a result of the subdivision of property. The term is synonymous with plot, parcel, premises, and site.

Manufactured home. A structure subject to federal regulatory standards (42 U.S.C. section 5401, the National Manufactured Home Construction and Safety Standards Act), which is transportable in one (1) or more sections; is eight feet (8') or more in width with a body forty feet (40') or more in length in traveling mode, or is three hundred twenty (320) or more square feet when erected on site; is built on a permanent chassis; is designed to be used as a single-family dwelling, with or without a permanent foundation, when connected to the required utilities; and includes the plumbing, heating, air-conditioning, and electrical systems contained in the structure. For the purposes of this chapter, a manufactured home shall not be deemed a single-family detached dwelling or a modular dwelling unit. Any transportable factory-built dwelling unit constructed prior to the enactment of Home Construction and Safety Standards Act of 1974 or which does not meet such standards together with any manufactured home which has been modified to the extent that it is no longer capable of use for residential occupancy purposes or which has had factory installed appliances removed rendering the unit uninhabitable, shall be deemed a trailer for the purposes of this chapter.

Mixed-use development. Property that incorporates two or more different principal uses (typically residential and commercial) within a single planned development under a single master plan.

Nightclub. An establishment that offers alcoholic beverages at a bar or tables and which also includes a dance floor and/or periodic live or recorded music or entertainment and which is open for business after 11:00 p.m. This term shall also include restaurants and commercial reception halls if they are open for business after 11:00 p.m., serve alcoholic beverages at a bar or at tables, and have a dance floor and/or live or recorded music or entertainment.

Open space, common. Open space within or related to a development, not a part of individually owned lots or dedicated for general public use, but designed and intended for the common ownership, use and enjoyment of all the residents or property owners of the development.

Seasonal occupancy. Occupancy of a dwelling unit, timeshare unit, or other accommodation for a limited period of time, typically not exceeding several weeks per calendar year. The occupancy may be in several intervals throughout the year, or in a single block of time, but in no event shall it extend for a period long enough to establish "legal residency" under applicable tax codes or to require registration of children for school attendance.

Street. An established legal right-of-way or platted right-of-way dedicated for the use of the general public, or portions thereof, either accepted by the department of transportation, or approved under the terms of the zoning ordinance as a private transportation system, or existing as an unimproved right-of-way serving multiple properties by easements owned in common or by other legally enforceable rights of pedestrian and vehicular access benefiting the adjoining properties and having a name officially assigned by the County. A street shall provide vehicular and pedestrian access to property for all purposes of travel, transportation and parking to which it is adopted, devoted, or dedicated. The term is synonymous with road, lane, drive, avenue, highway, roadway, thoroughfare, or any other term of like or common meaning. For the purposes of this chapter, there shall be two (2) types of streets:

- *Street, private.* Any street created under the terms of this chapter, which is not a component of the state primary or secondary system, and which is guaranteed to be maintained by a properly constituted association of property owners from the development of which such street is an approved part. In addition, the term "private street" shall include those unimproved rights-of-way serving multiple properties by easements owned in common or by other legally enforceable rights of pedestrian and vehicular access benefiting the adjoining properties and having a name officially assigned by the County (and sometimes referred to as "dirt streets").
- *Street, public.* A platted street, dedicated for the use of the general public for all purposes of travel, transportation or parking unless specifically noted otherwise.

Timeshare/Interval Ownership. A facility in which individual suites or living units are sold in increments of time (e.g., weeks or months) to individual owners for the purpose of transient or seasonal occupancy. Under this arrangement, the exclusive right of use, possession, or occupancy circulates among various owners or lessees thereof in accordance with a fixed time schedule, which may vary within certain specified time periods, on a periodically recurring basis.

Sec. 24.1-108. Filing fees.

(a) Application fees.

- (1) An application fee shall be charged to offset the cost of reviewing plans, processing applications, making inspections, issuing permits, advertising public notices and other expenses incident to the administration of this chapter or to the filing or processing of any amendment to the zoning ordinance, special use permit or zoning appeals. Such fees shall also include charges for readvertising and re-mailing notices when necessitated by the amendment, postponement, or modification of an application. Filing fees shall be paid upon submission of an application and shall be as set forth in the following schedule:

TYPE OF APPLICATION	FEE
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a. Amendment to the zoning ordinance, except planned development applications	\$600, plus \$10 for every acre in excess of 5, but not to exceed a maximum fee of \$2,000.
b. Application for planned development approval	
(1) Phase I submission (overall concept)	\$600, plus \$10 for every acre in excess of 5, but not to exceed a maximum fee of \$2,000.
(2) Phase II submission (detailed plan)	(Refer to site plan or subdivision plat fees)
c. Limited deviations from approved planned developments	\$100.00
d. Special use permits and amendments thereto:	
1. Applications for home occupations and accessory apartments	\$400
2. All other types of Special Use Permit applications	\$450, plus \$10 for every acre over 5, but not to exceed a maximum fee of \$1,000
e. Minor enlargement or expansion of a conforming special use under provisions of section 24.1-115(d)(2)	\$100.00
f. Special exception to height limitations as provided in section 24.1-231	\$200
g. Special exception to allow expansion of a nonconforming use as provided in section 24.1-801	\$200
h. Other special exceptions	\$200.00
i. Appeal to the board of zoning appeals	\$250
j. Amendment, modification or postponement of rezoning or use permit application requiring readvertisement and renotification by both the commission and board	\$300
1. Amendment, modification, or postponement of rezoning, use permit or variance application requiring readvertisement and renotification by the commission, board, or board of zoning appeals	\$200

- (2) No application shall be received or shall be deemed to have been filed until accompanied by the required filing fee.
- (3) Application fees shall not be refundable in the case of appeals to the board of zoning appeals. In the case of withdrawal of applications for zoning amendments, use permits or planned development approval, exemptions or exceptions, refunds of application fees shall be according to the following schedule:
- Written request received prior to ordering the publication of the first legal notice for the commission public hearing: fifty percent (50%) of fee refundable.
 - Written request received at least two (2) working days prior to the date scheduled for final action by the commission: twenty-five percent (25%) of fee refundable.

- c. Written request received less than two (2) working days prior to the date of final action by the commission: No refund.

All requests for withdrawal must be in writing, signed by the applicant, and be submitted to the zoning administrator.

- (4) The above-described fees shall be waived for any application submitted by any board, commission, agency or department of the county.

(b) *Site plan review fees.*

- (1) Filing fees shall be paid at the time a site plan is first presented for formal review and shall be in accordance with the following schedule:
 - a. Single-family attached or multi-family residential proposals shall pay a filing fee of one hundred fifty dollars (\$150.00) plus fifteen dollars (\$15.00) per dwelling unit (maximum fee two thousand five hundred dollars (\$2,500.00)) plus forty-five cents (\$0.45) per one thousand (1,000) square feet of total disturbed area.
 - b. Commercial, industrial, institutional and other types of uses and activities subject to site plan approval shall pay a filing fee of one hundred fifty dollars (\$150.00) plus three dollars (\$3.00) per one thousand (1,000) square feet of gross floor area of all structures (maximum fee two thousand five hundred dollars (\$2,500.00)) plus forty-five cents (\$0.45) per one thousand (1,000) square feet of total disturbed area.

Amendments to approved site plans shall pay a filing fee of one hundred dollars (\$100.00) unless the zoning administrator waives the fee because the need for the amendment arises from an error or oversight by a federal, state, or local agency.

- (c) *Site inspection fee.* Prior to the issuance of zoning certificates or the commencement of development or activities authorized by an approved site plan, the developer of a project shall be responsible for payment of a non-refundable inspection fee based on the total amount of improved area on the site. For the purposes of this section, improved area shall be computed by adding the total area covered by structures, buildings, parking areas, driveways, sidewalks and other impervious surfaces on the site. The fee shall be fifty dollars (\$50.00) plus one dollar (\$1.00) per one thousand (1,000) square feet of improved area up to a maximum fee of one thousand five hundred dollars (\$1,500.00).
- (d) *Variable site development fees.* In addition to the fees enumerated above, the developer shall be required to pay other fees as may be applicable to the proposed development. Depending upon the needs of the development and the desire of the developer that the county supply or arrange for certain signs, features or devices, these fees may include payments for construction, fabrication, installation and maintenance of control and warning signs and signals, streetlights, street identification signs, and other similar features, installations, or devices. The actual fees for such features, installations, devices, or maintenance thereof, shall be established by the board and published by the county from time to time and shall reflect, as closely as possible, actual costs including labor. The official fee schedule shall be available for review and copying from the zoning administrator during normal working hours.
- (e) *County exempt from fees and surety.* The county shall be exempt from all fees and surety requirements established by this chapter.

Sec. 24.1-117. Certain utilities and services exempt.

- (a) Except as specifically noted below, certain utilities and services shall be exempt from the other regulations of this chapter. Specifically, the following facilities and equipment shall be so exempted:
- (1) Traffic signals, fire hydrants, alarm or emergency devices, telephone booths and pedestals, mailboxes;
 - (2) Wires, poles, pipes, meters and similar facilities which provide service connections between primary distribution lines or mains and individual residential, commercial or industrial customers, or which are an integral and accessory part of a subdivision or development;
 - (3) Sewage pump and lift stations, water storage and pumping facilities, communication switching and relay facilities, and similar utilities when approved by the zoning administrator as a necessary and integral component of a public utility system. Such facilities shall be subject to the terms of article V and the buffering/screening provisions of section 24.1-262(e).
 - (4) Railroad tracks, signals, bridges and similar facilities and equipment located on a railroad right-of-way, and maintenance and repair work on such facilities and equipment.
- (b) Any utility substation, treatment plant, generating plant, or similar facility which is not within the normal scope of distribution facilities referred to above shall be authorized only by special use permit.

ARTICLE II. GENERAL REGULATIONS

DIVISION 1. GENERAL LOT REGULATIONS

Sec. 24.1-201. Subdivision and consolidation of lots.

- a. Each lot created subsequent to the adoption or amendment of this chapter shall comply with all area and dimensional regulations, as amended, for the district in which located and with all applicable provisions of the subdivision ordinance. Lots shall not be created in such a manner as to cause any existing structures to be in conflict with setback and yard requirements of the district in which located.
- b. Where a development is proposed to encompass and be situated on multiple existing lots under the same ownership, the lot lines separating said lots shall be vacated through the preparation and recordation of a survey plat, prepared in accordance with all applicable procedures and requirements. The recordation of such plat shall be a prerequisite for the issuance of land disturbing permits and/or building permits for the proposed development project. In the event the development proposed can stand alone on each of the lots without a principal use/accessory use dependency and in compliance with all applicable setback requirements, then vacation of the lot lines shall not be required.

Sec. 24.1-203. Computation of buildable or developable area.

In accordance with the comprehensive plan, certain land areas shall not be developed at all and others may only be credited partially toward buildable or developable area. These shall be determined on a case-by-case basis utilizing the percentages shown in the table below where:

The "*Density*" column contains the percentage of the specified land type which may be included in calculations of net developable density;

The "*Lot size*" column contains the percentage of the specific land type which may be included to meet minimum lot size requirements; and

The "*Platted*" column contains the percentage of the specified land type which may be platted as part of individual lots for transfer to a party other than a property owners' association or similar entity such as a land conservation trust.

In all cases, the zoning administrator shall be satisfied that each and every lot platted contains a sufficient building site for the future use of the property based on its zoning classification at the time the plat is submitted.

Land Area Type		Density	Lot Size	Platted
(a)	Existing public or private street or highway right-of-way	0%	0%	0%
(b)	Areas required for dedication to eliminate substandard rights-of-way	50%	0%	0%
(c)	Existing and proposed public or private utility easements greater than twenty feet (20') in width	0%	0%	100%
(d)	Existing and proposed public or private utility easements twenty feet (20') and less in width	100%	100%	100%
(e)	Existing and proposed easements providing public rights of access or which access community facilities	100%	50%	100%
(f)	Areas four feet (4') and less above mean sea level as determined by NGVD 1929 datum (National Geodetic Vertical Datum)	0%	0%	100%
(g)	Areas of existing ponds, lakes, or other impounded water bodies measured to the mean high water level at the natural outfall or emergency spillway	0%	0%	100% ⁽¹⁾
(h)	New stormwater management ponds or basins required to be constructed to serve a development project	100%	0%	0% ⁽²⁾
(i)	Area in excess of one-tenth acre of USEPA/Corps of Engineers jurisdictional non-tidal wetlands ⁽³⁾	50%	0%	100% ⁽¹⁾
(j)	Naturally occurring (predevelopment) slopes:			
	(1) less than twenty percent (20%)	100%	100%	100%
	(2) twenty (20%), but less than thirty percent (30%)	75%	50% ⁽⁴⁾	100%
	(3) thirty percent (30%) or greater	50%	25% ⁽⁴⁾	100%
⁽¹⁾ When platted, a conservation easement running to the benefit of the County or other entity deemed appropriate by the zoning administrator shall be provided.				
⁽²⁾ This does not preclude onsite stormwater management entirely within the bounds of a single lot where no subdivision is proposed.				
⁽³⁾ Jurisdiction is determined by the U.S. Army Corps of Engineers, not by York County. No reduction shall be re-				

quired for upland areas which are required as mitigation areas under permits issued by the Corps of Engineers. No reduction shall be required for jurisdictional areas within which filing is permitted by the Corps of Engineers.

(4)85% on lots two (2) acres] and larger

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DIVISION 2. GENERAL YARD REGULATIONS

Sec. 24.1-222. Yard requirements in built up areas.

Where fifty percent (50%) or more of the lots within a block are occupied by existing buildings and the average yards (front, rear, or side) of the existing principal buildings are less than that required by this chapter, the average so established may be taken in lieu of that which is otherwise required, provided however that in no case shall a front yard depth so determined be less than twenty feet (20'), or less than the setback line described on a recorded subdivision plat. Any front setback so determined shall be increased as necessary to accommodate any right-of-way reservation area required pursuant to the terms of section 24.1-223. In the case of side or rear yards, no side yard shall be less than ten feet (10') nor shall a rear yard be less than twenty feet (20'). For the purpose of this calculation, only those lots on the same side of the street on either side of the lot in question for a distance of six hundred feet (600') or to the nearest street intersection, whichever is less, shall be included within the calculation of the average yard unless the zoning administrator shall determine, in writing, that a greater or lesser distance is appropriate based on clearly discernible development patterns and community character.

Sec. 24.1-223. Front yard requirements adjacent to substandard rights-of-way.

In the event a property being developed abuts a public or private street which has a right-of-way width which is substandard under the standards of the Virginia Department of Transportation or less than the width necessary to accommodate future road improvements based on the comprehensive plan of the county or the plans of the Virginia Department of Transportation or Hampton Roads Metropolitan Planning Organization, the normally required front yard and front perimeter landscape yard depths for said development shall be increased by an amount which is equal to one-half (.5) of the total right-of-way deficiency. The area so added shall be reserved for future roadway construction and no structures shall be erected within it in anticipation of the area being incorporated into the existing street right-of-way.

Sec. 24.1-231. Exemptions from height regulations.

- (a) The zoning administrator may grant administrative exemptions to the district height regulations to permit reasonable increases in height for the following situations:
 - (1) Church spires, belfries, cupolas, monuments, chimneys, water towers, fire towers, cooling towers, radio and television antennas may be permitted to exceed the height stipulated in the district regulations by no more than twenty-five percent (25%) if attached to a building, or to a maximum of one hundred feet (100') if free-standing. This shall not apply to dish antennas, signs and flagpoles, or other similar structures. The zoning administrator shall determine whether a proposed height increase is reasonable and serves a function beyond merely drawing attention to the structure.
 - (2) Parapet walls or similar structures may exceed the maximum height limit by not more than eight feet (8'). Such walls or structures shall not be used as, for, or

to support signs. Pitched roofs on structures located in commercial and industrial zoning districts may exceed the maximum height limit by up to twenty-five percent (25%) provided that the zoning administrator determines that the actual number of building floors with habitable space is no greater than would be allowed with a flat roofed structure and provided further that the fire chief has reviewed and approved the proposed structure and site design to ensure appropriate accessibility for effective fire containment and control, including specifically the location of fire lanes to facilitate the positioning of fire-fighting apparatus and equipment during an emergency response.

- (3) Except as noted above, no accessory building or structure shall exceed the maximum height limitation established for the district or the height of the structure to which it is accessory, whichever is less, provided, however, that buildings which are accessory to a single-story building may be constructed to a maximum height not exceeding 1.25 times the height of the principal building. In cases where this is permitted, the accessory building shall be separated from the principal building by a distance of at least twenty feet (20').
- (4) Buildings and structures used in conjunction with a bona fide agricultural use in an RC or RR district shall be exempt from the height limits specified for those districts. This exemption shall not apply to buildings constructed in conjunction with horsekeeping activities as a residential accessory use.
- (b) The board, after conducting a duly advertised public hearing, may authorize exemptions to the height regulations which exceed those which may be authorized administratively. In granting exemptions, the board may impose reasonable conditions. No exemption shall be granted which violates the terms of the airport safety management overlay district.

Sec. 24.1-245. Greenbelts.

- (a) Greenbelts shall be provided contiguous to the street right-of-way along the following roads in accordance with the specified minimum widths:
 - (1) Bypass Road (Route 60) - 35 feet
 - (2) Denbigh Boulevard (Route 173) - 35 feet
 - (3) Fort Eustis Boulevard (Route 105) - 35 feet
 - (4) Hampton Highway (Route 134) - 35 feet
 - (5) Merrimac Trail (Route 143) between I-64 at Exit 230 (Camp Peary/Colonial Williamsburg) and Queen Creek - 45 feet
 - (6) Penniman Road (Route 641) between the Colonial Parkway and Route 199 - 45 feet
 - (7) Route 132 - 45 feet
 - (8) Route 199 - 45 feet
 - (9) Victory Boulevard (Route 171) - 35 feet
 - (10) East Rochambeau Drive from Oaktree Road (west) intersection to Mooretown Road and from Mooretown Road to dead end - 45 feet
 - (11) Mooretown Road from Lightfoot Road to a point 1,400 feet south of its intersection with Clark Lane - 45 feet

- (12) Mooretown Road from Airport Road to Waller Mill Road - 45 feet
- (13) Lightfoot Road from Route 60 to Rochambeau Drive (west) - 45 feet, except where the parcel also has frontage on Route 199, in which case the Lightfoot Road greenbelt shall be 35 feet.
- (14) Rochambeau Drive (west) from Lightfoot Road to James City County line - 45 feet

The 10-foot perimeter landscape strip normally required at the rear of buildings by Section 24-244(b) of this Chapter shall not be required on parcels subject to the 45-foot Greenbelt provision.

- (b) Along the Colonial Parkway, a greenbelt of no less than three hundred feet (300') from the nearest edge of the roadway shall be provided. This may include property owned by the National Park Service.
- (c) The greenbelt shall be left in an undisturbed natural state, unless the board, after conducting a duly advertised public hearing, authorizes clearing or development. Un-vegetated or under-vegetated greenbelts shall be landscaped in accordance with the following planting requirements as if they were front yards:

35 foot Greenbelt	70 landscape credits per 100 linear feet
45 foot Greenbelt	90 landscape credits per 100 linear feet

Normally required front yard landscape credits may be counted toward these requirements. Nothing in this section however, shall be interpreted to preclude the following activities within greenbelts: (1) the planting of additional trees, shrubs or groundcovers, or the maintenance thereof; (2) the construction and maintenance of bicycle and pedestrian facilities; (3) the establishment, construction, and maintenance of necessary entrances to the site; (4) limited clearing of underbrush, nuisance plants, dead or diseased plants/trees, or limbs/understory necessary to provide reasonable sight lines to a commercial establishment; or (5) the installation of utilities necessary to serve the development provided that the crossing of the greenbelt minimizes disturbance to the greatest extent possible; or (6) the installation of signs which do not require disturbance of existing trees, except to the extent necessary to open limited sight lines for the signs. All of these may occur under the terms of an approved plan.

- (d) If approved, modifications shall preserve the feeling and sense of the natural character of the greenbelt as it currently exists and application for modifications shall contain pre-development and post-development renderings. In the event the board approves disturbance of a greenbelt it may require the area to be re-landscaped at the ratios specified for unvegetated buffers, or at such other ratios as it may deem appropriate. The cost of advertising and conducting public hearings to consider modifications shall be borne by the developer making the request.
- (e) Greenbelts shall be open space that is owned and maintained by a property owners' association, conservation land trust, or equivalent entity. Alternatively, a landscape preservation easement granted to the county or an appropriate land trust may be utilized.
- (f) Commercial properties fronting greenbelt roads shall be permitted to open limited sight lines which allow indirect views of buildings, but generally block views of parking. Such sight line clearing shall be shown on the landscape plan for the site which shall include both plan and perspective views.
- (g) For purposes of calculating residential densities, the area encompassed by the greenbelt shall be considered as developable acreage in such computations.

DIVISION 6. SITE DESIGN STANDARDS**Sec. 24.1-260. General site design standards.**

- (a) No more land shall be disturbed than is reasonably necessary to provide for the desired use or development. All site plans shall clearly delineate land areas to be disturbed and those which shall remain undisturbed.
- (b) Indigenous vegetation shall be preserved to the maximum extent possible consistent with the proposed use and development. Any proposal to clear cut a property in the absence of an approved development plan shall be deemed to constitute a "forestry" operation and shall be permitted only in such districts and under such procedures as are set forth in articles 3 and 4 of this chapter or only when in accordance with the provisions of Section 10-14(f) of the York County Code.
- (c) Best management practices shall be applied to all land disturbing activities regulated by this chapter.
- (d) Natural areas with a biodiversity ranking of B1 (outstanding significance), B2 (very high significance), or B3 (high significance), shall be protected through a conservation easement or other development restriction encompassing the area within the secondary ecological boundary as defined by Technical Report 93-4, by the Division of Natural Heritage, Virginia Department of Conservation and Recreation, as may be amended from time to time. Biodiversity rankings between B1 and B3 indicate natural resources of global or state significance. For areas with a B4 or B5 ranking, necessary federal and state permit approvals required under the Federal Clean Water Act, Endangered Species Act, Chesapeake Bay Preservation Ordinance, or state and county wetlands laws and regulations shall suffice as proper environmental authorization.
- (e) Land development proposals shall be designed to minimize impervious cover consistent with the particular use proposed.
- (f) New construction on existing slopes in excess of thirty percent (30%) shall be prohibited unless the zoning administrator, after reviewing a detailed soils, geology, and hydrology survey prepared in accordance with acceptable engineering standards and submitted by the applicant, determines that such construction can be accommodated without creating or exacerbating erosion, seepage, or nutrient transport problems. Such survey shall include cross-sections of existing and proposed slopes and detailed plans of drainage devices. Grading such slopes to less than thirty percent (30%) shall also be prohibited unless the zoning administrator determines that such grading is necessary to the overall development; however, in no case shall such grading be used to permit new construction which otherwise would have been prohibited.
- (g) Except as exempted below, all outdoor lighting in excess of 3,000 initial lumens associated with land use and development proposals, whether new uses or changes and modifications in existing uses, shall be designed, installed and maintained to prevent unreasonable or objectionable glare onto adjacent rights-of-way and properties and shall incorporate the use of "full cut-off" luminaires/fixtures. The lighting standards established by the Illuminating Engineering Society of North America (IESNA) shall be used to determine the appropriate lighting fixture and luminaires for such uses. High-pressure sodium or metal halide lights shall be the preferred type of exterior site lighting. The use of Mercury vapor lights shall be discouraged in any exterior lighting applications, with the exception of under-canopy lighting for gasoline pump islands, bank or other drive-thru or drive-in facilities.

The following outdoor lighting applications shall be exempt from these requirements:

- (1) Construction, agricultural, emergency or holiday decorative lighting of a temporary nature.

- (2) Lighting of the United States of America, Commonwealth of Virginia, or York County flags and other non-commercial flags.
- (3) Security lighting controlled by sensors which provide illumination for fifteen (15) minutes or less.
- (4) The replacement of an inoperable lamp or component which is in a luminaire that was installed prior to the effective date of this section.
- (5) The replacement of a failed or damaged luminaire which is one of a matching group serving a common function.

In addition to the above-noted exemptions, the Zoning Administrator may approve a modification of the full cut-off luminaire requirements in either of the following circumstances:

- Upon finding that alternatives proposed by the owner would satisfy the purposes of these outdoor lighting regulations at least to an equivalent degree; or
- Upon finding that the outdoor luminaire or system of outdoor luminaires required for a baseball, softball, football, soccer or other athletic field cannot reasonably comply with the standard and provide sufficient illumination of the field for its safe use.

Sec. 24.1-261. Public service facility standards.

- (a) *Refuse and recyclables collection.* Dumpsters, or an alternate method of collection for recyclables and for nonrecyclable refuse approved by the zoning administrator, shall be required for mobile home parks and for multi-family, commercial and industrial developments. The following standards shall apply:
 - (1) Dumpsters or other approved collection receptacles shall be located on a site so that service vehicles will have convenient and unobstructed access to them. The location shall be such that encroachment by service vehicles upon bicycle and pedestrian ways, parking spaces, or vehicular circulation drives will be minimized. Dumpsters shall not be located closer than fifty feet (50') to any residential structure.
 - (2) Dumpsters or other approved collection receptacles shall be screened from view on at least three (3) sides with landscaping, shrubbery, or building walls supplemented where necessary by wooden or masonry fencing except where the zoning administrator determines that such screening is not necessary because other screening, such as buildings, fences or landscaping, is in place. A gated enclosure providing screening on four sides shall be required wherever necessary to ensure that the dumpster is not visible from an adjoining public right-of-way.
 - (3) Where dumpsters are to be utilized, dumpster pads, constructed in accordance with all applicable health department standards for construction and drainage, shall be provided.

DIVISION 7. ACCESSORY USES

Sec. 24.1-270. Accessory uses permitted.

Unless otherwise provided herein, accessory uses and structures shall be permitted in any zoning district, but only in connection with, incidental to, and on the same lot with a principal use or structure which is lawfully permitted within such district.

Sec. 24.1-271. Accessory uses permitted in conjunction with residential uses.

The following accessory uses shall be permitted in conjunction with residential uses. No accessory use, activity, or structure, except fences, shall be constructed or conducted until the principal use of the lot has commenced, or the construction of the principal building/structure has commenced and is thereafter diligently and continuously pursued to completion:

- (a) Antenna structures including guy wires for radio, television, and other noncommercial communication purposes subject to the following provisions:
 - (1) All locational standards and setbacks applicable to accessory structures shall be observed. Guy wires shall not be permitted in the front setback areas.
 - (2) Antennas in excess of the height requirements specified in division 3 of this article shall be permitted only by the board after conducting a duly advertised public hearing. The measurement of height shall include both the antenna, any ancillary antennae, and any support structure.
 - (3) The above provisions notwithstanding, dish antennas shall be subject to the following standards:
 - a. Dish antennae shall not exceed twelve feet (12') in diameter and fifteen feet (15') in height.
 - b. In residential districts, dish antennae larger than twenty-four inches (24") in diameter shall be permitted in rear yards only. No part of a dish antenna shall be closer than five feet (5') to any lot line. Dish antennae larger than twenty-four inches (24") in diameter shall not be permitted on the roofs of residential structures or structures accessory thereto.
 - c. All dish antennae and the construction and installation thereof shall conform with applicable requirements of the Uniform Statewide Building Code. No dish antenna may be installed on a portable or movable base.
 - d. The above dimensional and location standards notwithstanding, where the zoning administrator determines that a usable satellite signal cannot be obtained by locating or sizing a dish antenna in accordance with such criteria, application may be made to the board, in accordance with the procedures established in article I, for authorization, by use permit, of an alternative placement or size in order to provide for the reception of a usable signal. In its consideration of such applications, the board may impose such conditions as it deems necessary to protect the public health, safety and general welfare and to protect the character of surrounding properties.
- (b) Barns or other structures that are customarily incidental to an agricultural use in the RC or RR districts or when used in conjunction with horsekeeping as permitted in the residential districts.
- (c) Carports, garages, utility sheds, and similar storage facilities customarily associated with residential living. Movable storage boxes, also known as portable on-demand storage units, may be placed temporarily on a residential property for loading or unloading. Such units shall not be placed in a front yard area, except on a driveway and at least twenty (20) feet from the front property line. When placed in a side or rear yard, the boxes shall be located at least five (5) feet from any property line. For the purposes of this section, temporary placement shall mean no more than sixteen (16) consecutive

days at a time, and with at least one (1) year between successive placements. Not more than one (1) unit shall be placed on a residential property at a time and if multiple units are used for sequential loading or unloading, the sixteen (16) day limit shall apply to all cumulatively.

The above restrictions notwithstanding, when the principal structure on the property has been made uninhabitable as a result of a natural disaster for which a local state of emergency declaration has been issued or a fire or other damaging event beyond the control of the owner, one or more movable storage boxes may be used for on-site storage purposes exceeding sixteen (16) days while the principal building is undergoing reconstruction/repair. The authorization for such use shall be dependent on issuance of a building permit for the reconstruction/repair of the principal residence and shall expire upon issuance of a Certificate of Occupancy for the principal structure or twelve (12) months from the date of the event that damaged the structure, whichever occurs first. For good cause shown and to recognize extenuating circumstances, the Zoning Administrator may extend the authorization for as much as an additional 12-month period or until a Certificate of Occupancy is issued, whichever occurs first.

- (d) Child's playhouses, without plumbing.
- (e) Private kennels in the RC or RR districts.
- (f) Doghouses, pens, or similar structures for the housing of not more than four (4) commonly accepted companion animals over the age of six (6) months. The keeping of more than four (4) such animals over the age of six (6) months shall be deemed a private kennel and shall be permitted only in accordance with the requirements for same.
- (g) Beekeeping provided no beehive is closer than fifty feet (50') to any dwelling, school or church establishment and that the owner provides a supply of water for the bees within fifty feet (50') of the hive.
- (h) Parking or storage of small cargo or utility trailers, recreational vehicles and similar equipment, including, but not limited to, boats, boat trailers, motor homes, tent trailers and horse vans, and also including commercial vehicles having a carrying capacity of 1-ton or less and used as transportation by the occupant of the dwelling to and from their place of employment, provided that the following requirements are observed:
 - (1) such vehicles or equipment may not be parked or stored in front yards except on the driveway;
 - (2) such vehicles or equipment shall not be used for living, housekeeping or business purposes when parked or stored on the lot, provided however, that when the principal structure on the property has been made uninhabitable as a result of a natural disaster for which a local state of emergency declaration has been issued or a fire or other damaging event beyond the control of the owner, motor homes and recreational vehicles may be used for temporary residential occupancy during the time of reconstruction/repair of the principal dwelling. The authorization for such temporary occupancy shall be dependent on issuance of a building permit for the reconstruction/repair of the principal residence and shall expire upon issuance of a Certificate of Occupancy for the principal structure or twelve (12) months from the date of the event that damaged the structure, whichever occurs first. For good cause shown and to recognize extenuating circumstances, the Zoning Administrator may extend the authorization for as much as an additional 12-month period or until a Certificate of Occupancy is issued, whichever occurs first.
 - (3) wheels or other transporting devices shall not be removed except for necessary repairs or seasonal storage.

The provisions of this subsection shall not be deemed to authorize take-off or landing operations from residential properties for aircraft of any type, including special light-

sport aircraft, experimental light-sport aircraft, or ultra-light aircraft, as defined by the Federal Aviation Administration (FAA).

- (i) Outdoor recreation facilities such as swimming pools, tennis courts, basketball courts, skateboard ramps, private boat docks, piers or boat houses, provided that the use of such facilities shall be limited to the occupants of the premises and guests for whom no admission or membership fees are charged.
- (j) Fences or walls in single-family residential districts provided that:
 - (1) fences or walls located in rear yards shall not exceed eight feet (8') in height;
 - (2) fences or walls located in side yards shall not exceed six feet (6') in height;
 - (3) fences or walls located in front yards shall not exceed four feet (4') in height;
 - (4) fences or walls located on corner lots shall be subject to the visibility standards established in section 24.1-220;
 - (5) the above standards shall not be deemed to prohibit any fences or walls which may be required for screening, security or safety purposes by other sections of this chapter; in addition, in the case of lots having multiple street frontages which by definition would be considered "front yards," the Zoning Administrator may authorize the installation of fences up to eight (8) feet in height, rather than the 4-foot limit specified above, to provide privacy for the side and rear yard areas of the dwelling based on its orientation on the lot; and
 - (6) The "finished" side of any fence shall face outward towards surrounding properties and rights-of-ways, except where the Zoning Administrator determines such orientation to be impractical or unnecessary given existing fences or other extenuating circumstances on the adjacent property.
 - (7) No barbed wire or electrified or similar type fences shall be permitted except in conjunction with a bona fide agricultural operation.
- (k) Roadside sales of produce provided that operations shall be limited to no more than ninety (90) days per year and solely to the sale of produce grown or raised on the premises and shall provide off-street parking for not less than three (3) vehicles.
- (l) Yard or garage sales subject to the following provisions:
 - (1) Items offered for sale shall be limited to those which are owned by an occupant of the premises or other participants authorized by this section and which are normally and customarily used or kept on a residential premises. Such items shall not have been specifically purchased or crafted for resale;
 - (2) Participation in such sale shall be limited to the occupant of the premises and not more than four (4) non-occupants. For the purpose of this section, participation shall be construed to mean the offering for sale of items owned by an occupant or participating non-occupant, whether or not that individual is physically present on the premises during the conduct of such sale;
 - (3) Such sales shall be limited to two (2) in any given calendar year per lot. The duration of any single sale shall not exceed three (3) consecutive days.
- (m) Craft sales or shows subject to the following provisions:
 - (1) Items offered for sale shall be limited to those which have been made or crafted by the participants as a hobby or avocation as distinguished from items which are made in the conduct of a home occupation;

- (2) Participation in such sales or shows shall be limited to an occupant of the premises and not more than four (4) non-occupants. For the purposes of this section, participation shall be construed to mean the offering for sale of items made or crafted by an occupant or participating non-occupant, whether or not that individual is physically present on the premises during the conduct of such sale or show;
- (3) Not more than one (1) such sale or show event shall be conducted on a premises in any given calendar year. For the purposes of this section, the duration of any sale or show event shall be limited to six (6) days within a period of ten (10) consecutive days;
- (4) Such sales and shows may be conducted only upon authorization by the zoning administrator of a temporary permit subsequent to application and payment of a five dollar (\$5.00) nonrefundable processing fee by an occupant of the premises upon which such sale or show is proposed to be conducted. The zoning administrator shall make a determination with respect to approval or denial of applications within ten (10) working days of submission and shall consider the following:
 - a. the proposed location of the sale or show and the probable impact on adjacent land uses;
 - b. the ability of the structure in which such sale will be conducted to accommodate safely the number of persons likely to patronize such event;
 - c. the ability of the streets in the immediate vicinity of such residential property to accommodate adequately and safely the traffic and parking demand anticipated to be associated with such event without disruption of normal traffic circulation and emergency access needs.
- (5) In the event the zoning administrator determines that the conduct of such craft sale or show at the proposed location would adversely affect the surrounding land uses because of the disruption to the normal and essential traffic circulation needs of the immediate vicinity, or the safety and welfare of participants, patrons, neighbors, or the general public, the application for temporary permit shall be denied. No application for a temporary permit shall be deemed to have been received for processing unless accompanied by a nonrefundable processing fee in the amount of five dollars (\$5.00).
- (n) Other uses and structures of a similar nature which are customarily associated with and incidental to residential uses.

Sec. 24.1-272. Accessory uses permitted in conjunction with commercial and industrial uses.

The following accessory uses shall be permitted in conjunction with commercial and industrial uses. No accessory use, activity, or structure, except fences, shall be constructed until the principal use of the lot has commenced, or the construction of the principal building/structure has commenced and is thereafter diligently and continuously pursued to completion:

- (a) Fences or walls provided that:
 - (1) fences or walls located in side or rear yards shall not exceed eight feet (8') in height;
 - (2) fences or walls located in front yards shall not exceed six feet (6') in height provided that corner visibility standards, as established in section 24.1-220 shall be observed;

- (3) the above standards shall not be deemed to prohibit any fences or walls which may be required for screening, security or safety purposes by other sections of this chapter; and
- (4) the “finished” side of fences shall face any adjacent public right-of-way or residential zoning districts except where the Zoning Administrator determines such orientation to be impractical or unnecessary given existing fences or other extenuating circumstances on the adjacent property.
- (b) Uses intended specifically for the use and benefit of the employees and families or patrons of the principal use such as snack bars, cafeterias, off-street parking spaces, health and fitness, and recreation facilities or similar uses.
- (c) Living quarters for a proprietor or manager and family located in the same building as the place of occupation, or living quarters for a watchman or custodian of an industrial establishment.
- (d) Incidental repair, installation or assembly facilities for products or equipment used or sold in the operation of the principal use, unless specifically prohibited or otherwise regulated under the applicable district regulations.
- (e) Incidental storage facilities for goods and materials used or offered for retail sale on the premises.
- (f) Motor vehicle fuel dispensing pumps, pump islands, or service kiosks installed for and utilized exclusively by vehicles owned or operated by commercial or industrial establishments to which they are accessory.
- (g) Antenna structures for radio communication purposes or other information or data transfer purposes associated with a business or industrial operation. Antenna structures in excess of one hundred feet (100') in height (including both the supporting structure and the antenna) shall be permitted only by the board after conducting a duly advertised public hearing.
- (h) Dish antennae shall be subject to the following provisions:
 - (1) Dish antennae shall not exceed twelve feet (12') in diameter and fifteen feet (15') in height.
 - (2) Dish antennae shall be permitted in rear yards and on roofs. No part of a dish antenna shall be closer than ten feet (10') to any lot line. When located on a roof, such antenna shall be set back from all edges of the roof a distance of at least two (2) times its height.
 - (3) All dish antennae and the construction and installation thereof shall conform with applicable requirements of the Uniform Statewide Building Code. No dish antenna may be installed on a portable or movable base.
 - (4) The above dimensional and location standards notwithstanding, where the zoning administrator determines that a usable satellite signal cannot be obtained by locating or sizing a dish antenna in accordance with such criteria, application may be made to the board in accordance with the procedures established in article I, for authorization by special use permit, of an alternative placement or size in order to provide for the reception of a usable signal. In its consideration of such applications, the board may impose such conditions as it deems necessary to protect the public health, safety and general welfare and to protect the character of surrounding properties.
 - (5) The above provisions shall not apply to any dish antenna used by a cable company possessing a valid franchise issued by the board.

- (i) Incidental retail sales of products produced or refined on the premises.
- (j) Incidental monitoring equipment or devices designed to monitor general conditions or specific processes or events or both.
- (k) Other uses and structures of a similar nature which are customarily associated with and incidental to commercial or industrial uses.

Sec. 24.1-273. Location, height, and size requirements.

Except where other provisions of this chapter are more restrictive, the following requirements shall apply to the location, height and size of all accessory uses or structures in all districts, including the planned development district unless the approving ordinance for such district (project) has established alternative or supplementary requirements:

- (a) With the exception of statues, arbors, trellises, flagpoles, fences, walls or roadside stands, accessory buildings or structures shall not be located closer to the front lot line than the principal building provided, however, that where the setback of the principal building exceeds fifty feet (50') accessory buildings and structures shall be subject only to a fifty-foot (50') minimum setback requirement.
- (b) Accessory buildings or structures located closer to the front lot line than the rear of the principal building shall observe the side yard requirements applicable to the principal building.
- (c) An accessory building or structure attached to a principal building by any wall or roof construction, or located within ten feet (10') of any principal building, shall be considered a part of the principal building and shall observe all yard regulations applicable thereto.
- (d) Accessory buildings and structures shall observe minimum side and rear yard setbacks of five feet (5') except where the provisions of this section require otherwise and provided, however:
 - (1) There shall be no side and rear yard requirements for fences or walls; and
 - (2) There shall be no rear yard requirement for docks, piers or boathouses; however, a setback of ten feet (10') from side lot lines, or extensions thereof into bodies of water, shall be observed. All such uses shall be subject to applicable permitting requirements of the Virginia Marine Resource Commission and United States Army Corps of Engineers.
- (e) Roadside stands shall be set back at least twenty feet (20') from any road right-of-way.
- (f) The above listed requirements shall not apply to the parking or storage of small cargo or utility trailers, recreational vehicles and similar equipment; however, no such trailer, vehicle, or equipment shall be stored within twenty feet (20') of any public road right-of-way, unless in a driveway.
- (g) Except as authorized by section 24.1-231 of this chapter, no accessory building or structure shall exceed the maximum height limitation established for the district or the height of the structure to which it is accessory, whichever is less, provided, however, that buildings which are accessory to a single-story building may be constructed to a maximum height not exceeding 1.25 times the height of the principal building. In cases where this is permitted, the accessory building shall be separated from the principal building by a distance of at least twenty feet (20') and shall observe a minimum side and rear yard setback of ten (10) feet rather than the normally applicable five (5) feet.
- (h) With the exception of barns and similar structures associated with a bona fide agricultural/farming operation, the building footprint (i.e., lot coverage) of a structure acces-

sory to a residential use shall not exceed the area of the building footprint of the principal residential structure.

- (i) Accessory structures shall be located on the same lot as the principal structure. Where adjoining lots are under single ownership and an accessory structure is proposed to be located so as to straddle an interior property line, or where the accessory and principal structures would be on different lots, the owner shall be responsible for preparing and recording, prior to issuance of a building permit, a survey plat to vacate the interior lot line(s) as necessary to ensure the principal and accessory structures are located on the same lot.

Sec. 24.1-282. Home occupations permitted as a matter of right.

- (a) Permitted home occupations in all residential districts shall include the following:
 - (1) Artists and sculptors.
 - (2) Authors and composers.
 - (3) Dressmakers, seamstresses, tailors.
 - (4) Home crafts such as model making, rug weaving, cabinet making, furniture re-finishing, or ceramics.
 - (5) Office facility of a member of the clergy.
 - (6) Office facility of a resident salesperson, sales representative or manufacturer's representative.
 - (7) Home office facility for resident accountants, architects, artists, photographers, brokers, computer programmers, consultants, counselors, dentists, physicians, engineers, lawyers, insurance agents, real estate agents or similar professionals provided, however, that clients or patients may not be seen at the home office facility.
 - (8) Telephone answering service.
- (b) Permitted home occupations which may only be conducted in the RC, RR, R20, and R13 districts include the following:
 - (1) Photography studios.
 - (2) Day care or babysitters for not more than six (6) children, other than those of the provider, at any single time or in any 24-hour period.
 - (3) Tutoring, music or voice lessons or similar services for not more than four (4) persons other than the family members of the provider at any single time.
 - (4) Other activities and uses which the zoning administrator determines can be operated in complete accordance with section 24.1-281 of this chapter and which are not otherwise regulated or prohibited by this chapter or any other provision of law.

The activities specifically authorized under this subsection shall be permitted to have on-site client contact notwithstanding the provisions of Section 24.1-281 to the contrary.

Sec. 24.1-283. Home occupations permitted by special use permit.

The board may authorize, by special use permit issued in accordance with all applicable procedural requirements as set forth in article I, the following and materially similar types of home occupations subject to the specified conditions:

- (a) Home occupations permitted under section 24.1-282 which generate a parking demand for three (3) parking spaces, but no more than five (5) spaces and those occupations permitted under section 24.1-282(b) in residential districts other than those specified.
- (b) Home occupations with on-premises retail sales, or personal services, or customer/client contact.
 - (1) Uses which may be authorized under this section shall include barber and beauty shops, antique shops, bicycle rental, rental of rooms for nontransient use, day care for more than six (6) children, in-home professional offices with customer or client contact, firearms sales, and other materially similar activities and land uses involving on-premises retail sales, customer contact, and personal services. These provisions shall also apply to catering operations conducted in accordance with section 29.5 of the Rules and Regulations of the Board of Health of the Commonwealth of Virginia provided however, that food preparation that is conducted from the structure's standard residential kitchen for off-premises sale and consumption and that does not involve any on-site customer contact or non-resident employees shall not be deemed to require a special use permit.
 - (2) All public contact related to such use shall be limited to the period between 8:00 a.m. and 8:00 p.m., Monday through Saturday, unless otherwise specified by the board.
 - (3) Off-street parking shall be provided in accordance with the applicable standards established in article VI for business and commercial uses. Such spaces shall be in addition to those otherwise required for the residential use of the property, and shall be no less than ten feet (10') from any property line, unless on an existing driveway, and shall be effectively screened from view of adjacent properties and street rights-of-way by landscaping supplemented, if necessary, by fencing.
 - (4) The type and extent of items to be displayed, stored or sold, or personal services to be offered on the premises shall be specifically stipulated by the board in authorizing any such use permit. In no case shall the area devoted to sales, storage, display or conduct of such home occupation exceed twenty-five percent (25%) of the floor area of the residence or such smaller area as may be stipulated by the board.
 - (5) Such use shall comply with all applicable requirements for home occupations as established in section 24.1-281 of this chapter.

ARTICLE III. DISTRICTS

Sec. 24.1-306. Table of land uses.

P=PERMITTED USE S=PERMITTED BY SPECIAL USE PERMIT	RESIDENTIAL DISTRICTS						COMMERCIAL AND INDUSTRIAL DISTRICTS						
	RC	RR	R20	R13	R7	RMF	NB	LB	GB	WCI	EO	IL	IG

USES	CATEGORY 2 - AGRICULTURE, ANIMAL KEEPING, AND RELATED USES											
1. Aquaculture	P								P		P	P
2. Crop/Livestock Farming	P	P									P	P
3. Horsekeeping in Conjunction with Residential Use	P	P	S	S		S	S	S	S		S	S
4. Plant Nursery or Greenhouse												
a) Wholesale Only	P	P						P		P	P	
b) Retail Sales with or without wholesale sales	S	S					P	P		P	P	
c) Retail or Wholesale with accessory landscape contracting storage & equipment	S	S						S		P	P	P
6. Private Kennel	S	P	S	S					S		S	
7. Animal Hospital, Vet Clinic, Commercial Kennel												
a) Without Outside Runs	S	S			S		S	P		P	P	P
b) With Outside Runs	S	S						S		S	P	P
8. Commercial Stables		S									S	S
9. Commercial Orchard or Vineyard	P	P	S	S				S		P	P	P
10. Forestry	P	P	S	S	S	S	S	S	S	S	S	S
11. Farmer's Market	S						P		P		P	P

P=PERMITTED USE S=PERMITTED BY SPECIAL USE PERMIT	RESIDENTIAL DISTRICTS						COMMERCIAL AND INDUSTRIAL DISTRICTS						
	RC	RR	R20	R13	R7	RMF	NB	LB	GB	WCI	EO	IL	IG
	CATEGORY 9 - RECREATION AND AMUSEMENT (NON- GOVERNMENTAL)												
USES													
1. Theater - Indoor									P		P		
2. Health, Exercise, Fitness Centers Including Swimming and Racquet Sports													
a) Indoor Only							S	P	P		P	P	P
b) Indoor & Outdoor								S	P		P	P	P
3. Bowling Alley									P		P		
4. Video Arcade, Pool Hall, Bil- liards Hall, Bingo Hall									S		S		
5. Indoor Family Amusement Center								S	P		P		
6. Skating Rink									P		P		
7. Firing Range-Indoor Only									S			S	S
8. Paintball Gun Firing Range - outdoor	<u>S</u>												<u>S</u>
9. Miniature Golf, Waterslide, Skateboard Rink, Baseball Hitting Range, Outdoor Commercial Amusement									S		S		
10. Golf Driving Range	S								P		S	S	S
11. Country Club or Golf Course, Public or Private	S	S	S	S	S	S		S			S		
12. Campgrounds	S	S							S	S			
13. Theme Park, Amphitheater, Stadium									S		S	S	S
14. Marina, Dock, Boating Facility (Commercial)										P		P	P
15. Marina, Dock, Boating Facility (Private/Club)	S	S	S	S	S	S				P		P	P

P=PERMITTED USE S=PERMITTED BY SPECIAL USE PERMIT	RESIDENTIAL DISTRICTS						COMMERCIAL AND INDUSTRIAL DISTRICTS						
	RC	RR	R20	R13	R7	RMF	NB	LB	GB	WCI	EO	IL	IG
	CATEGORY 11 - BUSINESS / PROFESSIONAL SERVICE												
1. Broadcasting Studio								P	P		P	P	P
2. Barber/Beauty Shop							P	P	P		P		P
3.Apparel Services (Dry Cleaning/Laundry retail) Laundromat, Tailor, Shoe Repair, etc.)							P	P	P		P	P	P
4. Funeral Home (may include cremation services)								S	P		P		
4a. Cremation Services (human or pets)									S			S	S
5. a) Photographic Studio b) Film Processing Lab							S	P	P		P	P	P
6. Household Items Repair									P		P	P	P
7. Personal Services (Fortune Teller, Tattoo, Pawn Shop, etc.)									S				
8. a) Banks, Financial Institutions b) Freestanding Automatic Teller Machines							P	P	P		P		
9. Offices						S	P	P	P		P	P	P
10. Hotel & Motel								S	P	S	P		
11. Timeshare Resort						S			S	S	S		
12. Restaurant/Sit Down								P	P		P		
13. Restaurant/Brew-Pub									P		P		
14. Restaurant/Fast Food								S	P		S		
15. Restaurant/Drive In								S	P		S		
16. Restaurant - Carryout/Delivery only							S	P	P		S		
17. Catering Kitchen/Services							S	P	P		S		
18. Nightclub								S	S		S		
19. Commercial Reception Hall or Conference Center							S	S	P		P		
20. Small-Engine Repair (lawn and garden equipment, outboard motors, etc.)									P	P		P	P
21. Tool, Household Equipment, Lawn & Garden Equipment, Rental Establishment									P		P	P	P
22. Establishments Providing Printing, Photocopying, Blueprinting, Mailing, Facsimile Reception & Transmission or similar business services to the general public, and business and professional users								P	P		P	P	P
23. Professional Pharmacy							P	P	P		P		

P=PERMITTED USE S=PERMITTED BY SPECIAL USE PERMIT	RESIDENTIAL DISTRICTS						COMMERCIAL AND INDUSTRIAL DISTRICTS						
	RC	RR	R20	R13	R7	RM F	NB	LB	GB	WCI	EO	IL	IG

USES	CATEGORY 12 - MOTOR VEHICLE / TRANSPORTATION											
1. Car Wash							S	S		S		
2. Automobile Fuel Dispensing Establishment/ Service Station (May include accessory convenience store and/or car wash)								S		S	S	
3. Auto Repair Garage								S			P	P
4. Auto Body Work & Painting											P	P
5. Auto or Light Truck Sales, Rental, Service (New or used vehicles sales) (Including Motorcycles or R.V.'s)								S		S	P	P
a) Without Auto Body Work & Painting												
b) With Body Work & Painting								S		S	P	P
6. Heavy Truck and Equipment Sales, Rental, Service								S			P	P
7. Farm Equipment Sales, Rental, Service								S			P	P
8. Manufactured Home Sales, Rental, Service								S			S	S
9. Boat Sales, Service, Rental, and Fuel Dispensing								P	P		S	
10. Marine Railway, Boat Building and Repair									P		P	P
11. Truck Stop											S	S
12. Truck Terminal											P	P
13. Heliport								S		S	S	S
14. Helipad								S		S	P	P
15. Airport										S	S	S
16. Bus or Rail Terminal								P		S	P	P
17. Taxi or Limousine Service								P			P	
18. Towing Service / Auto Storage or Impound Yard											S	
18a. Recreational Vehicle Storage Facility								S			P	P
19. Automobile Graveyard, Junkyard												S
20. Bus Service/Repair Facility											P	P

P=PERMITTED USE S=PERMITTED BY SPECIAL USE PERMIT	RESIDENTIAL DISTRICTS						COMMERCIAL AND INDUSTRIAL DISTRICTS						
	RC	RR	R20	R13	R7	RMF	NB	LB	GB	WCI	EO	IL	IG
	CATEGORY 15 - LIMITED INDUSTRIAL ACTIVITIES												
USES													
1. Laboratories, Re- search/Development Testing Facilities									S		P	P	P
2. Publishing, Printing, Other than general public and busi- ness/professional services									P		P	P	P
3. Computer and Technology Development and Assembly									P		P	P	P
4. Contractors' Shops (e.g., Plum- bing, Electrical, Mechanical, HVAC, Home Improvement or Construc- tion, Swimming Pool, Landscaping, Cabinetmaking, General Building, Excavating, etc.) a) With Enclosed Storage of Equipment or Materials									P			P	P

b) With Outdoor/Exposed Storage									S			P	P
5. Laundry, Dry Cleaning Plant (institutional)												P	P
6. Stone Monument Sales, Processing												S	P
7. Manufacture or Assembly of Electronic Instruments, Components, Devices									S	S	P	P	P
8. Machine Shops & Fabricators									S	S		P	P
9. Manufacture or Assembly of Medical, Drafting, Metering, Marine, Photographic, Mechanical Instruments											P	P	P
10. Ice Manufacturing and Storage												P	P
11. Sales, Distribution, and Installation of Glass, Including Windows, Mirrors, and/or Automobile Glass								S	P			P	P
12. Recycling Center								S	S			P	P
13. Recycling Plant												S	P

Sec. 24.1-307. Prohibited uses.

The following uses shall be prohibited in the county:

- (a) Smelting;
- (b) Nuclear materials manufacturing;
- (c) Nuclear waste processing or disposal;
- (d) Biohazard waste processing or disposal; and
- (e) Manufacture, transformation, or distribution of biologically accumulative poisons or other poisons that are or ever were registered in accordance with the provisions of the Federal Insecticide, Fungicide, and Rodenticide Act (7 USC 135, et sec.).
- (f) ATV (All Terrain Vehicle) tracks, cross-country circuits or other facilities designed or used for operation of such vehicles by other than the property owner/occupant as an activity accessory to their residential use of a property.

Sec. 24.1-327. YVA-Yorktown village activity district.

- (a) *Statement of intent.* The YVA district is intended to:
 - (1) Recognize Yorktown which, because of its national and international significance, its unique development history and the interrelatedness of historic, residential and commercial land uses, warrants the application of a special approach to further development; and
 - (2) Recognize and implement the Yorktown Master Plan as an overall guide to the future redevelopment of Yorktown; and
 - (3) Provide development opportunities for a variety of land uses which will contribute to and complement the unique character and village atmosphere of Yorktown; and
 - (4) Promote economical and efficient land use, an improved level of amenities, innovative design, and unified development; and

- (5) Encourage pedestrian and bicycle-scale development in Yorktown and make the community more amenable to pedestrians and bicyclists.

(b) *Special procedural requirements.*

- (1) The use of any land or building within the YVA district on the date of the inclusion of such property in the district may either continue to be used for its then existing purpose or may thereafter be changed, but only in accordance with all applicable regulations, to accommodate any of the land uses listed in section 24.1-327(c), any provisions of article VIII, Nonconforming Uses, of this chapter to the contrary notwithstanding.
- (2) Any proposed new use, other than single-family detached dwellings, or any subdivision of land, shall be approved only by the board of supervisors in accordance with the procedures for special use permits in section 24.1-115 of this chapter. Permitted land uses shall be those listed in section 24.1-327(c).
- (3) With the exception of single family detached dwellings, the proposed enlargement or extensions of any use in this district which would result in an increase of less than twenty-five percent (25%) in either total lot coverage or floor area may be authorized, without public hearing, by resolution of the board. Proposed enlargement or expansion of any use, other than a single-family detached dwelling, that would result in an increase of twenty-five percent (25%) or more in either total lot coverage or floor area shall be subject to approval in accordance with the procedures for special use permits.
- (4) Proposed changes in use of land, buildings or structures within the district may be approved by the zoning administrator upon a determination that the proposed new use is similar in type, size, scope and intensity to the previous use and that it is one of permitted uses listed in subsection (c) below. Where, in the opinion of the zoning administrator, such similarities do not exist, the proposal shall be subject to review and approval in accordance with the procedures for special use permits specified in section 24.1-115 of this chapter.
- (5) The construction of new single-family detached dwellings, or the enlargement of existing single-family detached dwellings, shall be permitted as a matter of right provided that the proposed location is not within one of the areas specifically designated for commercial development by the adopted Yorktown Master Plan and that the following setback and dimensional requirements are observed, and provided that all applicable requirements and procedures set out in the Yorktown Historic District Overlay (Section 24.1-377) are observed.

Front Yard	Twenty-five feet (25')
Side Yard	Ten feet (10'), five feet (5') for accessory buildings
Rear Yard	Twenty feet (20'), five feet (5') for accessory buildings
Building Height	Thirty-five feet (35')

- (6) Applications for approval of new single family detached residences, or additions to existing single family detached residences, which do not comply with the above noted minimum dimensional standards shall be referred to the Planning Commission and Board of Supervisors in accordance with the same procedures applicable to requests for special use permits.
- (7) Any proposed subdivision of a lot or parcel in the YVA District shall be referred to the Planning Commission and Board of Supervisors for review and action in

accordance with the same procedures applicable to requests for special use permits.

- (c) *Permitted uses.* The following uses may be permitted within the YVA district subject to a determination by the zoning administrator or board, as prescribed in subsection (b) above, that the use in the location proposed is substantially in conformance with the Yorktown Master Plan:
- (1) Dwellings, single-family detached, attached, or multi-family; also including structures designed to accommodate both residential and commercial uses.
 - (2) Churches and other places of worship.
 - (3) Office space for doctors, lawyers, accountants, architects or similar professions and general business offices such as those of insurance companies, trade associations, real estate companies, banks and financial institutions or similar establishments.
 - (4) Retail trade and business uses consistent with the character of the district and the surrounding area including such uses as:
 - a. gift shops;
 - b. sit-down restaurants; or
 - c. specialty shops catering to the local and tourist market.
 - (5) Art galleries, museums, tourist centers, community centers, performing or cultural arts centers, libraries, and similar types of uses intended to promote cultural resources.
 - (6) Publicly owned uses such as offices, court houses, fire stations, parking facilities, parks, playgrounds, and schools.
 - (7) Guest houses, bed and breakfast establishments.
 - (8) Hotels, motels.
 - (9) Personal service uses consistent with the character of the district and the surrounding area including such uses as:
 - a. beauty and barber shops;
 - b. day care facilities; or
 - c. drug stores.
 - (10) Recreationally oriented waterfront businesses and establishments providing covered or uncovered boat slips or dock space, minor repairs or servicing, marine fuel and lubricants, marine supplies, refreshments, and similar goods or services.
 - (11) Commercial parking facilities.
 - (12) Uses and structures which are customarily accessory and clearly incidental and subordinate to any of the uses specifically permitted above.
- (d) *General dimensional, density and design requirements.* Other provisions of this chapter notwithstanding, development within the YVA district shall be subject to the following requirements:

- (1) All development within the YVA district shall be served by public water and public sewer systems.
 - (2) There shall be no minimum lot size, minimum lot width or minimum lot frontage requirements within the YVA district provided, however, that in its approval of a proposed subdivision or land use, the board may establish such requirements as it deems necessary to ensure that the arrangement of the proposed use or division of land is compatible with the district in general.
 - (3) With the exception of the minimum requirements specified for single-family detached dwellings in section 24.1-327(b)(5), there shall be no minimum front, side or rear yard requirements for developments within the YVA district provided, however, that yards and setbacks of an appropriate dimension shall be provided where determined necessary by the board to ensure adequate emergency access, light, and air, to protect the value and utilization of the subject property and adjacent property, and to maintain and enhance the character of the surrounding area.
 - (4) The maximum residential density permitted in any development proposed in this district shall be ten (10) units per gross acre.
 - (5) Commercial and other non-residential uses permitted under the terms of this section shall be limited in lot coverage and floor area only to the extent that all such uses shall comply with the open space, height, fire separation, emergency access, and parking and loading requirements specified herein.
 - (6) With the exception of single-family detached dwellings which shall be limited to thirty-five feet (35') in height, the height of any structure, including fixtures and mechanical systems, within the YVA district shall not exceed twenty-five feet (25') above the average finished ground elevation adjacent to the front of such structure provided, however, that the board, in recognition of unique topographical features, may require a lower maximum height in order to preserve and protect existing scenic views or may authorize a greater height after an evaluation of the character of the surrounding area, the spatial relationships of existing developments, the specific architecture proposed and the potential impacts on any scenic views or vistas.
- (e) *Open space and recreational area requirements.*
- (1) A minimum of twenty-five percent (25%) of the total area of any development within the YVA District shall be reserved as landscaped open space or improved open air pedestrian plazas or courts unless a smaller percentage is approved by the board in consideration of special or unique characteristics of the proposed development.
 - (2) In the case of residential developments, recreation space, as defined below, shall be provided at a ratio of two hundred (200) square feet per dwelling unit unless a lesser amount is authorized by the board in consideration of circumstances unique to the particular development proposal. For the purposes of this section, recreation areas may include private patios, balconies or yard areas adjacent to individual dwelling units; or, common recreation space, either indoor or outdoor, which is available to all residents of the development.
 - (3) Any common open space and recreational areas provided to meet the requirement above shall be protected by appropriate covenants developed in accordance with the provisions established in article IV-division 17, that are designed to ensure their perpetuation and maintenance.
- (f) *Special submission requirements.*

- (1) At the time of application for approval of a development proposal within the YVA district, the developer shall submit the following plans. Where a proposed development is subject to review and approval by the Historic Yorktown Design Committee (HYDC) in accordance with the terms of section 24.1-377, the review and action of the HYDC, if applicable, shall be secured before submitting the proposal for YVA district review by the board of supervisors:
 - a. A plan for accommodating the pedestrian, bicycle, automobile, and trolley traffic, parking and loading demands which the development can be expected to generate. The plan shall be prepared by a transportation engineer, unless otherwise authorized by the zoning administrator, and shall be fully documented as to approach, methodology, and data collection, manipulation and analysis.

Such plan may include provisions for public or private off-site parking as well as on-site parking and shall include consideration of pedestrian, bicycle, and transit access. The zoning administrator or the board shall review the plan as to its suitability and feasibility for accommodating the traffic and parking demands of the proposed development.

Where the required parking spaces are proposed to be accommodated by an off-site or transit-oriented arrangement, an appropriate agreement between and among the involved parties and the county, suitable in form and content to the county attorney, shall be executed in order to provide a guarantee that such parking facilities will be available for the total period the use or uses for which the parking is required are reasonably expected to exist.
 - b. An overall signage plan, including rendered drawings, for the proposed development. Such plan shall provide for unified and appropriately scaled and located signage and shall have been developed in accordance with the dimensional requirements specified in the Yorktown Design Guidelines and shall have been reviewed by the HYDC.
 - c. A landscaping plan which specifies the type, size and location of landscaping proposed in conjunction with open space, recreation areas, courts/plazas, or other such amenities.
 - d. Elevations or architectural renderings as well as descriptions of materials or colors to be used in the proposed development, all of which shall have been reviewed by the HYDC.
- (2) Such plans as required above, once approved, shall become part of the conditions of approval for the project and shall not be deviated from except upon specific approval of the board or the zoning administrator, depending upon which gave original approval.

Sec. 24.1-333. GB-General business district.

- (a) *Statement of intent.* The GB district is intended to provide opportunities for a broad range of commercial activities. Many of these uses are characterized by the need for large amounts of outdoor display and storage of goods or materials, significant parking and loading space requirements, a dependency on truck traffic, and, in general, an activity level and aesthetic character which set them apart from the types of uses permitted in the lower intensity commercial districts. The GB district is intended for application in areas designated for general commercial and tourist commercial development by the comprehensive plan but with specific attention to the suitability of such areas and their surroundings for accommodating the demands and impacts of high intensity commercial development.

- (b) *(Dimensional standards.* Each lot created or used shall be subject to the following dimensional standards:

GB-GENERAL BUSINESS DISTRICT

Use Classification	Minimum Lot Requirements		Minimum Yard Requirements			Maximum Building Height
	Area	Width	Front	Side	Rear	
All Permitted & Special Uses	20,000 sf	100'	45'	10'	10'	50'
Minimum district size: none						
NOTE: These minimum lot requirements apply where both public water and public sewer are available. For lots not served by public water and public sewer, refer to section 24.1-204. Performance standards and special use permit requirements or conditions may increase yard and lot requirements. See article IV.						

- (c) *Special requirements.*

- (1) Outdoor storage of goods or materials shall not be permitted in front yards. In side and rear yards, outdoor storage shall be in a fully buffered area which meets all applicable setback requirements.
- (2) Outdoor display of merchandise shall be limited to that merchandise which:
 - a. is in working order and ready for sale; and
 - b. is located in side or rear yards; or
 - c. if in front, can be accommodated in the area immediately adjoining the front of the principal building and extending not more than ten feet (10') from it except:
 1. in the case of a permitted gasoline sales establishment, outdoor display can be accommodated on the pump islands;
 2. in the case of permitted vehicle sales establishments, landscape nurseries and materially similar uses, outdoor display which does not encroach upon any required element on the site shall be permitted.

No such display shall encroach upon any required parking or loading area or vehicular circulation area. Outdoor displays of merchandise shall not cause injury or harm to or reduce the viability of any required landscaping.

- (3) Other provisions of this ordinance notwithstanding, the use of trailers, as defined in section 24.1-104, for outdoor storage purposes in conjunction with a principal permitted use shall be permitted by special exception approved by the board of supervisors subsequent to conducting a duly advertised public hearing. Such activity shall be subject to the following standards and such others as the board may deem appropriate:
 - a. the use of trailers/cargo units shall be clearly accessory and incidental to the principal use of the property;
 - b. such trailer or cargo unit shall not be visible from any adjacent right-of-way and shall be screened from view from such rights-of-way and adjacent properties by a walled enclosure at least two (2) feet higher than the

height of the tallest trailer/cargo unit with such wall being constructed of as an extension of the principal building;

- c. the exterior finish of the enclosure wall shall match and/or complement the faces of the principal building with which it is aligned.
- d. the wall shall incorporate articulations, pilasters, belt and/or header courses or other decorative treatments to break up any continuous linear expanse greater than twenty-five (25) feet in length.
- e. Landscaping shall be placed around the perimeter of the enclosure in accordance with the building perimeter landscaping requirements specified by this chapter.

Sec. 24.1-340. EO-Economic opportunity district.

- (a) *Statement of intent.* The EO district is intended to guide a mix of commercial, tourist-related, and limited industrial uses to certain portions of the county identified in the comprehensive plan that have or are projected to have the access and infrastructure necessary to support both capital and employment intensive uses. Development in these locations is expected to be in keeping with that of the surrounding development and sensitive to the natural environment.
- (b) *Dimensional standards.* Each lot created or used shall be subject to the following dimensional standards:

EO-ECONOMIC OPPORTUNITY DISTRICT

Use Classification	Minimum Lot Requirements		Minimum Yard Requirements			Maximum Building Height
	Area	Width	Front	Side	Rear	
All Permitted & Special Uses	20,000 sf	100'	45'	10'	10'	75'
Minimum district size: none						
NOTE: These minimum lot requirements apply where both public water and public sewer are available. For lots not served by public water and public sewer, refer to section 24.1-204. Performance standards and special use permit requirements or conditions may increase yard and lot requirements. See article IV.						

- (c) *Special requirements.*
 - (1) Outdoor storage of goods or materials shall:
 - a. not be permitted in any front yards;
 - b. not encroach upon any required landscaping;
 - c. not encroach upon any required parking or loading zoning space;
 - d. be screened from public rights-of-way or adjoining properties which are zoned or used less intensively.

- (2) Outdoor display of merchandise shall be permitted in any yard area provided that such display:
 - a. shall not encroach upon any required perimeter infiltration yards adjoining a lot line;
 - b. shall not encroach upon any required parking or loading space;
 - c. when located in any front yard, shall be limited to that merchandise which is in working order and ready for sale; and
 - d. shall not cause injury or harm or reduce the viability of any required landscaping.
- (3) All uses shall be conducted so as not to produce hazardous, objectionable or offensive conditions at or beyond property line boundaries by reason of odor, dust, lint, smoke, cinders, fumes, noise, vibration, heat, glare, solid and liquid wastes, fire or explosion.
- (4) Other provisions of this ordinance notwithstanding, the use of trailers, as defined in section 24.1-104, for outdoor storage purposes in conjunction with a principal permitted use shall be permitted by special exception approved by the board of supervisors subsequent to conducting a duly advertised public hearing. Such activity shall be subject to the following standards and such others as the board may deem appropriate:
 - a. the use of trailers/cargo units shall be clearly accessory and incidental to the principal use of the property;
 - b. such trailer or cargo unit shall not be visible from any adjacent right-of-way and shall be screened from view from such rights-of-way and adjacent properties by a walled enclosure at least two (2) feet higher than the height of the tallest trailer/cargo unit with such wall being constructed of as an extension of the principal building;
 - c. the exterior finish of the enclosure wall shall match and/or complement the faces of the principal building with which it is aligned.
 - d. the wall shall incorporate articulations, pilasters, belt and/or header courses or other decorative treatments to break up any continuous linear expanse greater than twenty-five (25) feet in length.
 - e. Landscaping shall be placed around the perimeter of the enclosure in accordance with the building perimeter landscaping requirements specified by this chapter.

Sec. 24.1-351. IL-Limited industrial district.

- (a) *Statement of intent.* The IL district is intended to provide opportunities for a wide variety of light manufacturing, fabricating, assembling, processing, wholesale distributing, and warehousing uses in areas designated for limited industrial development by the comprehensive plan. In order to preserve land for these industrial activities, to reduce extraneous traffic, and to avoid future conflicts between industry and other uses, permitted commercial activities are limited primarily to business and industrial parks and to those activities which will be useful to employees in the district and compatible with and complementary to the permitted types of industrial activities.
- (b) *Dimensional standards.* Each lot created or used shall be subject to the following dimensional standards:

IL-LIMITED INDUSTRIAL DISTRICT

Use Classification	Minimum Lot Requirements ⁽¹⁾		Minimum Yard Requirements			Maximum Building Height
	Area	Width	Front	Side	Rear	
All Permitted & Special Uses	20,000 sf	100'	45'	10'	10'	60'
⁽¹⁾ These minimum lot requirements apply where both public water and public sewer are available. For lots not served by public water and public sewer, refer to section 24.1-204. Minimum district size: none NOTE: Performance standards and special use permit requirements or conditions may increase yard and lot requirements. See article IV.						

(c) *Special requirements.*

- (1) Outdoor storage of goods or materials shall:
 - a. not be permitted in any front yard area;
 - b. not encroach upon any required landscaping;
 - c. not encroach upon any required parking or loading space;
 - d. be screened from public rights-of-way or adjoining properties which are not zoned or used for industrial purposes.
- (2) Outdoor display of merchandise shall be permitted in any yard area provided that such display:
 - a. shall not encroach upon any required perimeter infiltration yards adjoining a lot line;
 - b. shall not encroach upon any required parking or loading space;
 - c. when located in any front yard, shall be limited to that merchandise which is in working order and ready for sale; and
 - d. shall not cause injury or harm or reduce the viability of any required landscaping.
- (3) Other provisions of this ordinance notwithstanding, the use of trailers, as defined in section 24.1-104, for outdoor storage purposes in conjunction with a principal permitted use shall be permitted provided that such use shall be clearly accessory and incidental to the principal use of the property and that such trailer or cargo unit shall not be visible from any adjacent right-of-way and shall be screened from view from adjacent properties by fencing and/or landscaping.

Sec. 24.1-361. PD-Planned development district.

- (a) *Statement of intent.* The PD district is established to encourage innovative and creative design and to facilitate use of the most advantageous construction techniques in the development of land for a variety of compatible land uses. Specifically, the district is intended to:

- (1) ensure ample provision and efficient use of open space;
- (2) promote high standards in the layout, design and construction of development;
- (3) promote development of superior projects or communities; and
- (4) achieve a mixture of uses and types of uses when appropriate.

In addition, in accordance with the objective of the board to promote and encourage a more moderately-priced single-family detached housing product within the county, the planned development district is intended to provide opportunities, through application of the affordable housing incentive provisions set forth herein, for the consideration of project proposals having a less extensive open space, recreation space, and amenities package, but which offer cost-containment measures which may not be otherwise available.

- (b) *Application of district designation.* A PD district may be located within any area of the county except those designated for general industrial uses by the comprehensive plan subject to establishment in accordance with the procedures set forth in this section.
- (c) *Permitted land uses.* The land uses within any planned development shall be substantially in accordance with the land use designation in the comprehensive plan. Where the comprehensive plan suggests that a mixed-use development can be appropriate, no less than one-half ($\frac{1}{2}$) of the acreage shall be devoted to the uses in the underlying land use designation, unless the board of supervisors determines that a lesser amount is appropriate and acceptable given the specific characteristics of the mixed-use proposal. Subject to specific authorization by the board, the following land uses shall be permitted:
 - (1) Dwellings: single-family detached, attached, or multi-family including mixtures thereof.
 - (2) Senior Housing, as defined in this chapter (i.e., Independent Living, Congregate Care, Assisted Living, or Continuing Care Retirement Communities) and in accordance with the performance standards established in Section 24.1-411 unless specifically modified by the board at the time of approval of the proposed development.
 - (3) Public and semi-public uses such as churches, schools, offices, libraries, fire stations, parks, playgrounds, golf courses, swimming pools, tennis courts, recreational marinas, community centers, and similar types of uses.
 - (4) Commercial and retail uses which are designed, located and scaled in proportion to the overall scale of the planned development.
 - (5) Office and service sector uses such as offices and office buildings; banks and financial institutions; medical, optical, and dental clinics and laboratories; data processing centers; technical or business schools; printing, publishing, engraving, blueprinting businesses, photocopying, facsimile, and similar services; hotels and motels; and similar uses.
 - (6) Limited industrial, wholesale, and warehouse uses permitted as a matter of right in the EO district.
 - (7) Uses and structures which are customarily accessory and clearly incidental and subordinate to any of the uses permitted above.
- (d) *General dimensional, density and design requirements.*
 - (1) All development within the PD district shall be served by public water and public sewer systems.

- (2) The minimum area of any tract, or combination of contiguous tracts, of land proposed for development as a PD shall be five (5) acres. Additional adjoining acreage may be added to an approved PD provided that all procedures applicable to the creation of such a district are observed.
- (3) The maximum development density for a PD development shall be generally consistent with the density envisioned by the adopted comprehensive plan for the area in which located. The board may, however, approve density increases as a part of the PD approval and, in the case of Senior Housing developments, may consider density allowances of up to twenty (20) units per acre.
- (4) The following dimensional standards shall be observed unless specifically modified by the board (either upwards or downwards) at the time of district approval:
 - a. Minimum lot area: none
 - b. Minimum lot width:
 1. single-family detached: forty-five feet (45')
 2. single-family attached: twenty feet (20')
 3. non-residential: seventy feet (70')
 - c. Minimum yard requirements:
 1. The minimum distance between any two principal buildings or structures shall be twenty feet (20'), except in senior housing developments where it shall be thirty (30) feet;
 2. The minimum distance between any principal building and an accessory building, or between any two accessory buildings, shall be ten feet (10').
 3. The minimum distance between any principal or accessory building and any public or private street right-of-way or common area boundary line shall be thirty feet (30').
 4. The minimum setback from any external property line shall be twenty feet (20').
 - d. Maximum building height:
 1. Residential structures shall not exceed forty feet (40').
 2. Non-residential structures shall not exceed fifty feet (50').
- (5) The proposed location and arrangement of structures shall not be detrimental to existing or prospective adjacent structures or to the existing or prospective development of the neighborhood.

Sec. 24.1-372. Repealed – see Chapter 23.2 of York County Code

Sec. 24.1-375. TCM-Tourist corridor management overlay district.

- (a) *Statement of intent.* In accordance with section 15.2-2306 Code of Virginia and the objectives of the comprehensive plan, the tourist corridor management overlay district regulations are designed and intended to protect the aesthetic and visual character of the transportation corridors leading into and through the designated historic districts of Williamsburg and Yorktown. All development proposed within these corridors shall be subject to procedures and standards in addition to those in the district regulations. Primarily this overlay district is intended to provide a positive visual experience for those visitors coming into and through the county. The provisions that follow include both *requirements* (using the word “shall”) that must be met and *recommendations* (using the word “should”) that suggest desirable features and treatments that property owners are encouraged to voluntarily incorporate into their building/site designs.
- (b) *Applicability.* The special provisions established in this section shall apply to development on parcels which are located along major tourist corridors used to access historic districts in Williamsburg and Yorktown that have been designated on the Virginia Landmarks Register. All lands within two hundred fifty feet (250') of the following arterial rights-of-way shall be included in the overlay district. Where the property is bisected by this line the overlay designation shall apply to all construction proposed beyond the 250-foot line to a depth of 500 feet, or to the boundary of the property, whichever is less:
 - (1) George Washington Memorial Highway (Route 17) north of Cook Road
 - (2) Richmond Road (Route 60)
 - (3) Bypass Road (Route 60)
 - (4) Pocahontas Trail (Route 60)
 - (5) Route 132
 - (6) Merrimac Trail (Route 143) west of Queen Creek
 - (7) Goosley Road (Route 238) east of Route 17
 - (8) Cook Road (Route 704), but excluding the east side of the road between Route 17 and Old York Hampton Highway (Route 634)
 - (9) Colonial National Historical Parkway
 - (10) Second Street from Merrimac Trail to the City of Williamsburg boundary line

The boundary of the tourist corridor overlay district shall be shown on the zoning map and shall be delineated as a surveyed line on any site plan or subdivision plat proposed for property located within this district. The boundary shall be measured from the future right-of-way line if the proposed development will be required to add right-of-way, either because of its traffic impact or if the roadway is shown on an adopted statewide, regional, or county plan as requiring additional right-of-way within a twenty (20) year period.
- (c) *Use Regulations.* Permitted uses, special permit uses, accessory uses, dimensional standards and special requirements shall be as established by the underlying zoning district, unless specifically modified by the requirements set forth herein.
- (d) *Tree protection.*
 - (1) No person shall cut, destroy, move or remove any living, disease-free tree of any species having a trunk caliper of eight inches (8") or larger, measured four and one-half feet (4½') above ground level, in conjunction with any development of land in this district unless and until final approval of required site plans and subdivision plans shall be obtained that authorizes such action.

- (2) No person shall cut or clear trees for any reason or for the sole purpose of offering land for sale. Land may, however, be underbrushed (bushhogged).
- (3) When located within a zoning district which permits such activity, the clear-cutting of trees strictly in conjunction with timbering or silvicultural activities is permitted provided that clear-cutting shall not occur within one hundred feet (100') of the right-of-way of any corridor designated in this section and only when in compliance with a forest management plan approved by the Virginia Department of Forestry. The term "clear-cutting" as used herein shall mean the cutting of more than twenty-five percent (25%) of the trees located on the site.
- (e) *Replacement of trees.* Should the zoning administrator determine that trees eight inches (8") in diameter or greater or vegetation which contributes to the buffering effect have been removed without specific site plan or subdivision plan approval for such removal, the zoning administrator shall require replacement of such trees or vegetation. The minimum height of the new replacement trees shall be twelve feet (12'). The minimum height and spread of new shrubs shall be three feet (3'). The zoning administrator may require replacement at ratios greater than one-to-one (1:1) in recognition of the size, spatial coverage, and maturity differences between replacement trees and the trees being replaced. Ratios shall generally conform to the provisions of §24.1-241 relating to tree credits for mature trees.
- (f) *Special architectural standards along tourist corridors.* No building exterior or structure including signs shall have architectural materials inconsistent in quality, appearance, or detail with other architectural materials commonly used in the District. Specific consideration shall be given to compatibility with adjacent properties, thus preventing an adverse impact to existing or future development which could cause a depreciation in property values.

Design and architectural features shall demonstrate consistency with the following provisions:

- (1) Large work area doors or open bays shall not open toward or face the external roadways.
- (2) Heating, ventilating and air conditioning equipment, duct work, air compressors, other fixed operating machinery shall be either screened from view or located so that such items are not visible from the highway. Large trash receptacles, dumpsters, utility meters, aboveground tanks, satellite dishes, antennas, etc., shall be similarly located or screened.
- (3) Fences in front of buildings on the site are discouraged, but if used, fencing shall be landscaped to minimize visibility from the external roads or be of a style which is harmonious with adjacent development. Security and screening fencing required by other terms of the Zoning Ordinance shall be permitted but shall be buffered from direct view by appropriate landscaping.
- (4) Long monotonous facade designs shall be avoided including, but not limited to, those characterized by unrelieved repetition of shape or form or by unbroken extension of line. Any front-facing façade greater than 50 feet in length shall incorporate wall plane projections or recesses or bay divisions extending at least 20% of the length of the façade. Architectural details such as foundation highlights (belt courses, water tables), lintels, sills, awnings, contrasting cornices or bands of material at the first floor or roof level, projections at entries, wall and roof articulations, bay divisions, and other architectural treatments should be used to create visual interest and to avoid plain, unvaried facades.
- (5) Rooflines on large-scale buildings should be broken with features such as hips, cross gables and dormers. Flat-roofed structures should incorporate parapet walls or other treatments to provide visual interest as well as to shield any direct

views of the roof deck or rooftop mechanical equipment. When renovating one-story buildings with flat roofs, consideration should be given to adding gable or hipped roofs, or parapet walls or other treatments to add height and visual interest.

- (6) Generally no more than three (3) colors shall be used per building. Roofs and window glazing (e.g. tinted or reflective windows) shall not be counted against the three-color limitation. Semitransparent stains are recommended for application on natural wood finishes. Paint colors for exterior surfaces, including trim and accent features, shall be selected from the *Yorktown Color Palette* which shall be defined as those exterior colors represented on the "Preservation Exterior Palette" published by Sherwin Williams Company or on the "Williamsburg Collection" palette published by Martin Senour Paints, provided however, that this shall not be construed to require the use of paints from these companies and color matches from other paint suppliers will be acceptable. The Zoning Administrator shall have the authority to approve requests for use of other colors that are similar to and compatible with those specifically shown on the referenced palette. The use of metallic colors, black (except as an accent or trim color), or fluorescent colors is not permitted. Trim and decorative materials made from wood, metal, composite materials, and concrete should be used where appropriate to contrast with wall materials. In the case of additions or redevelopment, if original quality building materials are to be retained, the new building materials should match or coordinate as closely as possible in terms of material, color and texture.
- (7) No portion of a building constructed of barren and unfinished concrete masonry unit (cinder block) or corrugated material or sheet metal shall be visible from any adjoining property or public right-of-way. This shall not be interpreted to preclude the use of architectural block as a building material. Acceptable building materials for front or highly-visible elevations include, but are not limited to: brick, split-faced block, dryvit or other simulated stucco (EIFS), steel-surfaced/pre-finished insulated dimensional wall panels, pre-formed simulated brick or architectural block panels, and wood or synthetic clapboard siding. Attractive façade treatments are also encouraged on any elevation that is visible from an adjoining property.
- (8) Gasoline station canopies and bank, fast-food or other drive-thru establishment canopies shall be integrally related to the overall building design by using the same or complementary roof forms, materials, colors, and architectural treatments. Canopy lighting shall be recessed into the ceiling or framework of the canopy.
- (9) Building lighting shall be recessed under roof overhangs or generated from concealed source, low-level light fixtures. Site lighting shall be from concealed sources (i.e., the luminaire or bulb itself is not visible), shall be of a clear white or amber light that does not distort colors, and shall not spill over onto adjoining properties, buffers, highways, or in any way impair with the vision of motor vehicle operators. Lighting fixtures or devices shall be of a directional or cut-off type capable of shielding the light source from direct view and providing well-defined lighting patterns.
- (10) Signs shall generally have no more than three (3) colors. Free-standing signs shall be of a ground-mounted monument type and, with the exception of shopping center signs, shall not be larger than thirty-two (32) square feet nor erected to a height greater than ten feet (10'). Other provisions of this chapter notwithstanding, shopping center signs shall be limited to a maximum area of ninety-six (96) square feet and a maximum height of fifteen (15) feet.
- (11) Outdoor storage shall be permitted in accordance with the underlying zoning district, provided however, that all outdoor storage areas shall be screened so that they are not visible from public rights-of-way, internal roadways, and adja-

cent property. In the case of any new development established after the date of adoption of this section, the parking of any vehicles licensed as “trucks” by the Department of Motor Vehicles and used in the operation of the business shall be considered “outdoor storage” and shall be screened/buffered from view from public rights-of-way. This shall not be deemed to require screening of vehicles stopped temporarily for delivery/pick-up or loading/unloading. Outdoor display areas shall not encroach into any required front yard landscape area.

- (12) Parking areas shall have ten percent (10%) of their surface areas in landscaped islands. Surface parking within forty-five feet (45') of a public road right-of-way shall be screened from direct view from the public road by shrubbery and earth-forms.
- (13) Site landscaping shall be designed to blend the architecture of the structures on the site with the natural landscape and character of the surroundings.
- (14) Compliance with the provisions of this subsection shall be evidenced by the submission to the zoning administrator of the following plans and information, in addition to complying with all applicable provisions of the subdivision ordinance or article V of this chapter:
 - a. Comprehensive sign plan including design, materials, and colors to be utilized.
 - b. Architect's or artist's rendering of all proposed structures depicting the front, side and rear elevations including architectural treatment of all structural exteriors to be visible from an external roadway, including building materials and colors to be utilized.
 - c. Rendering of the landscape treatment in perspective view depicting parking areas visible from public road. If appropriate, this rendering may be combined with the one in subparagraph b. above.
 - d. The location and design of all proposed exterior site lighting within the proposed development.
 - e. Photographs or drawings of neighboring uses and architectural styles.

- (g) *Appeals.* In the event the zoning administrator disapproves plans submitted under the provisions of this section or recommends conditions or modifications which are unacceptable to the applicant may request that such plans shall be forwarded to the planning commission for review and action at a public meeting at which the applicant shall have an opportunity to present its case and reasons for appeal. The plans shall be approved by the planning commission if it finds such plans to be in accordance with all applicable ordinances and consistent with the intent of protecting the aesthetic and visual character of the district. If the planning commission finds that such plans do not meet the above stated criteria, it shall deny approval of the plans or shall approve them with reasonable conditions which implement the intent of this district. This section shall not be interpreted to confer upon the planning commission any right to override the decision of the zoning administrator on any issue not directly related to the specific additional requirements of this section. In any case in which an applicant is dissatisfied with a decision of the planning commission, the applicant may appeal the decision to the board of supervisors within thirty (30) days by filing a notice of appeal with the clerk of the board of supervisors. Said appeal shall be reviewed by the board of supervisors at a public meeting at which the applicant shall have an opportunity to present its case and reasons for appeal. In accordance with the terms of section 15.2-2306 of the Code of Virginia, the applicant shall be entitled to appeal the decision of the board of supervisors to the circuit court within thirty (30) days of the board's decision.

Sec. 24.1-378. Route 17 corridor overlay district.

- (a) *Statement of intent.* In accordance with section 15.2-2306 of the Code of Virginia and the objectives of the comprehensive plan, the Route 17 corridor overlay district regulations are designed and intended to protect the aesthetic and visual character of the Route 17 corridor leading to the Yorktown historic district. All development proposed within the corridor shall be subject to the procedures and standards set forth in this section in addition to those required by the underlying district regulations. Primarily, this overlay district is intended to provide a positive visual experience for those visitors coming into and through the county along this corridor. The provisions that follow include both *requirements* (using the word “shall”) that must be met and *recommendations* (using the word “should”) that suggest desirable features and treatments that property owners are encouraged to voluntarily incorporate into their building/site designs.
- (b) *Applicability.* The special provisions established in this section shall apply to development on parcels which are located along Route 17 between the Newport News city line and Cook Road. The overlay designation shall apply to all parcels with frontage on Route 17 and shall extend to the depth of the property or 500 feet, whichever is less.

The boundary of the tourist corridor overlay district shall be shown on the zoning map and shall be delineated as a surveyed line on any site plan or subdivision plat proposed for property located within this district. The boundary shall be measured from the existing right-of-way line, or the future right-of-way line if the proposed development will be required to add right-of-way either because of its traffic impact or if the roadway is shown on an adopted statewide, regional, or county plan as requiring additional right-of-way within a twenty (20) year period.

- (c) *Use Regulations.* Permitted uses, special permit uses, accessory uses, dimensional standards and special requirements shall be as established by the underlying zoning district, unless specifically modified by the requirements set forth herein.
- (d) *Special architectural standards.*
- (1) No portion of a building façade facing (i.e., parallel to) or highly-visible from a public right-of-way shall be constructed of barren or unfinished concrete masonry unit (cinder block), corrugated material, sheet metal or vertical metal siding. Acceptable building materials for front or highly-visible elevations include, but are not limited to: brick, split-faced block, dryvit or other simulated stucco (EIFS), steel-surfaced/pre-finished insulated dimensional wall panels, pre-formed simulated brick or architectural block panels, and wood or synthetic clapboard siding. Attractive façade treatments are also encouraged on any elevation that is visible from an adjoining property.
 - (2) Any front-facing façade greater than 50 feet in length shall incorporate wall plane projections or recesses or bay divisions extending at least 20% of the length of the façade. Architectural details such as foundation highlights (belt courses, water tables), lintels, sills, awnings, contrasting cornices or bands of material at the first floor or roof level, projections at entries, wall and roof articulations, bay divisions, and other architectural treatments should be used to create visual interest and to avoid plain, unvaried facades.
 - (3) Rooflines on large-scale buildings should be broken with features such as hips, cross gables and dormers. Flat-roofed structures should incorporate parapet walls or other treatments to provide visual interest as well as to shield any direct views of the roof deck or rooftop mechanical equipment. When renovating one-story buildings with flat roofs, consideration should be given to adding gable or hipped roofs, or parapet walls or other treatments to add height and visual interest.
 - (4) Large work area doors or open bays that open toward or face Route 17 should be avoided.. Such features, whether front, side or rear-facing, shall be buffered

from view from view from Route 17, adjacent roadways and development by architectural elements and/or decorative fencing and/or evergreen landscaping.

- (5) Heating, ventilating and air conditioning equipment, duct work, air compressors, other fixed operating machinery shall be either screened from view or located so that such items are not visible from the highway. Large trash receptacles, dumpsters, utility meters, aboveground tanks, satellite dishes, antennas, etc., shall be similarly located or screened.
- (6) Fences in front of buildings on the site are discouraged, but if used, fencing shall be landscaped to minimize visibility from the external roads or be of a decorative style that is harmonious with adjacent development. Security and screening fencing required by other terms of the Zoning Ordinance shall be permitted but wherever possible shall be buffered from direct view by appropriate landscaping.
- (7) Generally no more than three (3) colors shall be used per building. Roofs and window glazing (e.g. tinted or reflective windows) shall not be counted against the three-color limitation. Paint colors for exterior surfaces, including trim and accent features, shall be selected from the *Yorktown Color Palette* which shall be defined as those exterior colors represented on the "Preservation Exterior Palette" published by Sherwin Williams Company or on the "Williamsburg Collection" palette published by Martin Senour Paints, provided however, that this shall not be construed to require the use of paints from these companies and color matches from other paint suppliers will be acceptable. The Zoning Administrator shall have the authority to approve requests for use of other colors that are similar to and compatible with those specifically shown on the referenced palette. Semitransparent stains are recommended for application on natural wood finishes. The use of metallic colors, black (except as an accent or trim color), or fluorescent colors is not permitted. Trim and decorative materials made from wood, metal, composite materials, and concrete should be used where appropriate to contrast with wall materials. In the case of additions or redevelopment, if original quality building materials are to be retained, the new building materials should match or coordinate as closely as possible in terms of material, color and texture.
- (8) Signs shall generally have no more than three (3) colors and the color scheme should match or complement the colors used on the principal structure.
- (9) Outdoor storage shall be permitted in accordance with the underlying zoning district, provided however, that all outdoor storage areas shall be screened so that they are not visible from public rights-of-way, internal roadways, and adjacent property. In the case of any new development established after the date of adoption of this section, the parking of any vehicles licensed as "trucks" by the Department of Motor Vehicles and used in the operation of the business shall be considered "outdoor storage" and shall be screened/buffered from view from public rights-of-way. This shall not be deemed to require screening of vehicles stopped temporarily for delivery/pick-up or loading/unloading. Outdoor display areas shall not encroach into any required front yard landscape area.
- (10) Gasoline station canopies and bank, fast-food or other drive-thru establishment canopies shall be integrally related to the overall building design by using the same or complementary roof forms, materials, colors, and architectural treatments. Canopy lighting shall be recessed into the ceiling or framework of the canopy.
- (11) Site landscaping should be designed to blend the architecture of the structures on the site with the natural landscape and character of the surroundings.
- (12) Compliance with the provisions of this subsection shall be evidenced by the submission to the zoning administrator of the following plans and information,

in addition to complying with all applicable provisions of the subdivision ordinance or article V of this chapter:

- a. Comprehensive sign plan including design, materials, and colors to be utilized.
 - b. Architect's or artist's rendering of all proposed structures depicting the front, side and rear elevations including architectural treatment of all structural exteriors to be visible from an external roadway, including building materials and colors to be utilized.
 - c. Rendering or photo-simulation of the landscape treatment in perspective view depicting parking areas visible from public road. If appropriate, this rendering may be combined with the one in subparagraph b. above.
 - d. The location and design of all proposed exterior site lighting within the proposed development.
 - e. Photographs or drawings of neighboring uses and architectural styles.
- (g) *Appeals.* In the event the zoning administrator disapproves plans submitted under the provisions of this section or recommends conditions or modifications which are unacceptable to the applicant may request that such plans shall be forwarded to the planning commission for review and action at a public meeting at which the applicant shall have an opportunity to present its case and reasons for appeal. The plans shall be approved by the planning commission if it finds such plans to be in accordance with all applicable ordinances and consistent with the intent of protecting the aesthetic and visual character of the district. If the planning commission finds that such plans do not meet the above stated criteria, it shall deny approval of the plans or shall approve them with reasonable conditions which implement the intent of this district. This section shall not be interpreted to confer upon the planning commission any right to override the decision of the zoning administrator on any issue not directly related to the specific additional requirements of this section. In any case in which an applicant is dissatisfied with a decision of the planning commission, the applicant may appeal the decision to the board of supervisors within thirty (30) days by filing a notice of appeal with the clerk of the board of supervisors. Said appeal shall be reviewed by the board of supervisors at a public meeting at which the applicant shall have an opportunity to present its case and reasons for appeal. In accordance with the terms of section 15.2-2306 of the Code of Virginia, the applicant shall be entitled to appeal the decision of the board of supervisors to the circuit court within thirty (30) days of the board's decision.

Section 24.1-379. Route 17 Commercial Corridor Revitalization Overlay District

- (a) *Statement of Intent:* The Route 17 Commercial Corridor Revitalization Overlay District is established to encourage re-use and redevelopment of physically constrained properties, as defined herein, in a manner that is beneficial for the corridor and economically viable for the property owner. The district is designed to provide additional flexibilities for development and redevelopment situations on such properties with the objective of restoring those properties to an economically viable and attractive component of the commercial corridor.
- (b) *Permitted Uses:* All uses permitted as a matter of right and by special use permit shall remain as established in the underlying zoning district regulations, unless specifically noted in this section.
- (c) *Special Performance Standards:* The following special performance standards shall apply to physically constrained properties within the Route 17 Revitalization Overlay District. Where the overlay district provisions impose a lesser standard than the provisions established elsewhere in the Zoning Ordinance, the less restrictive standards

shall apply. Physically constrained properties shall be those which have the following characteristics:

- lot width is less than 80 feet *or* lot depth is less than 100 feet; *or*
 - lot size is less than 20,000 square feet; *and*
 - buildings or site improvements are situated so as not to comply with applicable setback or other dimensional standards prescribed for the underlying district (the applicable setback dimension shall take into account any right-of-way reservation requirement that would apply to the property based on programmed road improvements); *and*
 - the property has been designated as *blighted* by resolution of the Economic Development Authority. For the purposes of this section, blighted properties shall be deemed to be those with buildings or improvements which, by reason of dilapidation, obsolescence, overcrowding, faulty arrangement of design, lack of ventilation, light and sanitary facilities, excessive land coverage, deleterious land use or obsolete layout, or any combination of these or other factors, are detrimental to the safety, health or welfare of the community and the appearance and economic vitality of the Route 17 corridor:
- (1) Damage or Destruction: The provisions of Section 24.1-802(b) notwithstanding, where a nonconforming building or structure located on a property meeting the above criteria is demolished on the owner's initiative, a new building or structure may be constructed on the site meeting the same setbacks as previously existed, provided however, that for the new structure no front setback shall be less than thirty (30) feet and no side or rear setback shall be less than five (5) feet and provided further that the new structure is architecturally compatible with its surroundings and will contribute positively to the surroundings, as determined by the zoning administrator in consultation with the Economic Development Authority. Such 30-foot setback shall be measurable from the existing front property line and the normal requirement to measure setback dimensions from the boundary of any right-of-way reserve area shall not apply, provided however, that no structure shall be placed less than ten (10) feet from any right-of-way reservation line.
 - (2) Additions: The provisions of Sections 24.1-802(a) and 24.1-804 notwithstanding, additions to a building with nonconforming setbacks on a property meeting the above criteria may be constructed in line with any existing nonconforming front setback dimension of thirty (30) feet or more, provided that no side or rear setback shall be less than five (5) feet, and provided further that the exterior of the blighted structure shall be renovated or repaired so that the existing structure and the addition are architecturally compatible and contribute positively to their surroundings, as determined by the zoning administrator in consultation with the Economic Development Authority. In no event shall an addition be permitted if it would have a setback of less than ten (10) feet from any right-of-way reservation line.
 - (3) Landscaping: The provisions of Section 24.1-244 notwithstanding, the front landscape yard dimension on a property meeting the above criteria may be reduced by one (1) foot for every one (1) foot in depth of public right-of-way adjoining the property that is suitable for installation of landscaping (e.g., those areas which are located outside and behind ditches or behind curb lines, and which are not encumbered by utilities, needed for future road widening, or otherwise unsuitable for the establishment and maintenance of landscape plantings), and which the property owner agrees in writing to landscape and maintain, provided that the Virginia Department of Transportation shall consent to the establishment of the landscaping. The maximum reduction in the depth of the landscape yard available under this provision shall be ten (10) feet. The property owner shall be responsible for landscaping and maintaining the subject area,

both the private and public property areas, in accordance with the front yard landscape planting ratios and requirements specified in this Chapter.

(4) Parking:

- a. Paving: The provisions of Section 24.1-607 notwithstanding, the Zoning Administrator may authorize the continued use or expansion of an existing gravel parking lot for a reuse or redevelopment proposal on a property meeting the above criteria where paving would be the sole cause for installation of stormwater management facilities to address water quality issues. Such authorization shall be contingent on the following:
 1. the property owner shall install appropriate timber-bordered landscape islands and other delineators to define circulation aisles and parking spaces;
 2. the parking lot shall be surfaced in a brown river stone aggregate mix with sufficient variation in stone sizes to ensure proper compaction and maneuverability; and
 3. the parking lot shall be screened from view from Route 17 or other abutting roads by landforms and/or an evergreen hedgerow or similar landscape treatment approved by the Zoning Administrator.

- (5) Impervious Surface: The provisions of Section 24.1-376 notwithstanding, the zoning administrator may authorize, after such consultation with the director of Newport News Waterworks as the zoning administrator may deem advisable, the reuse or redevelopment of a property meeting the above criteria and including a stormwater management system that addresses the pre-development/post-development runoff quality requirements specified in Section 24.1-376(f)(1)d. of this chapter in an alternative and equivalent manner.

ARTICLE IV. PERFORMANCE STANDARDS FOR USES

Sec. 24.1-402. Standards for open space development (cluster techniques).

- (a) In those districts where permitted, cluster techniques may be utilized to create open space developments, provided that a minimum gross land area of ten (10) acres is available and utilized. Acreage that is continually inundated, or which is subaqueous, shall not be counted as "land area" for the purposes of this section. Additions to existing open space developments of less than ten (10) acres may be approved if the zoning administrator finds that such an addition forms a logical extension.
- (b) Density calculations shall be based on net developable acreage as determined by section 24.1-203 of this chapter and the following formula:

$$\text{Lot Yield} = \frac{\text{Net Developable Acreage} \times /_{\text{SR}}}{\text{Minimum Conventional Lot Size of the Zoning District}}$$

Where $/_{\text{SR}}$ is a reduction factor to account for streets and recreation space required in conventional subdivisions and is based on the zoning districts in which the proposed development is to be located:

$$\frac{\text{District}}{/_{\text{SR}}}$$

RC	0.875
RR	0.850
R20	0.825
R13	0.800

Fractional units may be rounded up to the next whole number.

(c) *Yard, size and dimension requirements.*

- (1) There are no lot width or area requirements.
- (2) The above notwithstanding, any lots abutting the exterior boundary of the open space development shall be of the same size as would be required of conventional development unless the abutting development shall have been developed as an open space development. A lot shall be considered to be abutting unless it is separated by an area of open space which is not less than forty-five feet (45') in width.
- (3) The minimum setback from external streets shall be that which is prescribed in the underlying zoning district.
- (4) The minimum setback from internal public streets shall be thirty feet (30') and from internal private driveways or streets the setback shall be established on the plan of development, but in no case shall it be less than ten feet (10').
- (5) The minimum distance between any two principal buildings within the open space development shall be twenty feet (20'). Side yard dimensions on each individual lot shall be a minimum of ten feet (10') in depth and rear yard dimensions shall be a minimum of twenty feet (20') in depth. Accessory building locations and setbacks shall be governed by the provisions set out in Section 24.1-273 of this Chapter.
- (6) Where flag lots are utilized, the "staff" portion shall be twenty feet (20') or greater in width.

(d) *Open space requirements.*

- (1) No less than forty percent (40%) of the gross area of an open space development shall be reserved as common open space, including recreational space, which shall be maintained for the benefit of the residents of the development. Golf courses may be counted as open space for the purpose of meeting this requirement to a maximum of thirty percent (30%) of the required open space. In addition, in the event the developer of a proposed open space development dedicates or willingly sells to the County land from the parent tract for the purpose of development of one or more of the following community-enhancing public facilities, the land area involved in such transaction shall be creditable on an acre for acre basis toward the open space requirement for the project, to the extent that such credit does not exceed fifty percent (50%) of the amount of open space that would otherwise be required for the development. Land intended by the County for use as one or more of the following purposes shall be eligible for such credit:
 - school
 - park
 - recreation center (indoor or outdoor)
 - community center
 - library
 - such other facility as the Zoning Administrator determines to be materially similar.

The identification of such land and conveyance of the subject property to the County shall occur prior to or contemporaneously with the approval of the construction plans (Development Plans) for the proposed residential project. Nothing in this section shall be deemed to supersede the provisions of Section 15.2-2232 of the Code of Virginia which require that the location of public facilities be found to be substantially in accord with the adopted Comprehensive Plan.

- (2) All areas not included in lots or street rights-of-way shall be incorporated into common open space.
 - (3) The common open space shall be arranged and designed so as to facilitate its use, ensure continuity of design, and preserve sensitive environmental features. Failure to achieve these goals shall be sufficient reason for the zoning administrator to deny applications for open space development plan approval or to require modifications which may include loss of lots.
- (e) *Recreational space requirements.*
- (1) Recreational space equivalent to no less than seven and one-half percent (7.5%) of the gross land area shall be provided and shall be suitable, as determined by the zoning administrator, for recreation purposes and the development of recreational facilities which are appropriate to the size, scale, and market orientation of the development. Recreation areas shall not abut the exterior boundary of the open space development.
 - (2) Within the recreation space shall be developed, at a minimum, an open play field, a playground or tot lot, and a picnic area, all of which shall be located, sized and scaled in proportion to the development.
 - (3) The zoning administrator may modify the requirement for recreational space in any manner deemed appropriate or necessary for the purpose of ensuring that adequate recreation facilities are available to serve the development given its size, scale, and market orientation.
 - (4) Adequate pedestrian and bicycle facilities shall be provided which fully interconnect the development and its recreation areas both internally and with existing and planned external pedestrian and bicycle facilities.
- (f) Applications for open space developments shall be made in the same manner as prescribed for conventional subdivisions in the county subdivision ordinance.
- (g) Final plats recorded for an open space development utilizing the cluster technique and all deeds for lots within such development shall bear a statement indicating that the land is within an approved residential open space (cluster) subdivision and shall also bear a statement indicating the ownership status of the development's open space system and shall reference the covenants creating a property owners association which shall also be recorded at the time final plats are put to record.
- (h) Development density may be increased if recreation area in excess of the seven and one-half percent (7.5%) prescribed by the subdivision ordinance is provided and developed. Density increases shall be limited to a maximum of ten percent (10%) and shall be granted in increments of one percent (1%) for each additional two percent (2%) increment of recreation space.

The proposed active recreation facilities shall be approved by the zoning administrator as being appropriate to the size and market orientation of the development and shall either be constructed or guaranteed for construction through an agreement and surety acceptable to the county attorney prior to the platting of any lots over fifty percent (50%) of the total number authorized in the open space subdivision.

Sec. 24.1-404. Standards for multi-family dwellings.

All multi-family development shall comply with the following standards. Evidence of compliance shall be demonstrated through preparation of a site plan in accordance with all requirements of article V.

- (e) The development shall be surrounded by a perimeter buffer area of at least fifty feet (50') in width which shall be landscaped, in accordance with the provisions of article II, division 4 of this chapter, to meet the Type 50 Transitional Buffer standards..

Sec. 24.1-411. Standards for Senior Housing (Housing for Older Persons)

- (e) The development shall be surrounded by a perimeter buffer area of at least fifty feet (50') in width which shall be landscaped, in accordance with the provisions of article II, division 4 of this chapter, to meet the Type 50 Transitional Buffer standards.

Sec. 24.1-457. Standards for firing ranges and outdoor paintball ranges.

- (a) With the exception of paintball ranges, only completely enclosed indoor firing ranges are permitted. Outdoor paintball ranges may be permitted.
- (b) No structure except screening fences and identification signs used for firing ranges shall be located closer than one hundred feet (100') to any residential lot line.
- (c) The protection of adjacent properties shall be assured by proper design, location, and orientation of structures, backstops, and firing lines. Outdoor paintball ranges shall be enclosed by security fencing or other means adequate to delineate the boundaries of the range. No part of an outdoor paintball range may be located within 300 feet of an occupied residentially zoned property, or such greater distance as may be required as a condition of a special use permit.
- (d) The range shall be designed so that no range noise is audible at the property line. Documentation certified by an architect and professional engineer to this effect shall be submitted with site and building plans.

**DIVISION 10. BUSINESS AND PROFESSIONAL SERVICE USES
(CATEGORY 11)**

Sec. 24.1-470. Standards for all business and professional service uses.

- (a) All off-street parking and loading space for business and professional services shall be located not less than twenty-five feet (25') from any residential property line and shall be effectively screened from view from adjacent residential properties by landscaping, supplemented, as necessary, by appropriate fencing materials. This setback/screening requirement shall also apply to all circulation drives serving the business/professional service.

- (b) When located in or adjacent to a residential area, the external appearance and arrangement of such facility shall be of a form, character, appearance and arrangement fully compatible with the residential area.
- (c) Outdoor lighting shall be sufficient to protect public safety; however, it shall be directed away from property lines and rights-of-way and shall not cast unreasonable or objectionable glare on adjacent properties and streets.
- (d) Outdoor speaker or paging systems shall be directed away from property lines and shall be designed to prevent objectionable noise levels on adjacent properties or streets.
- (e) Appropriate and adequate facilities for accommodating bicycle parking and other alternative transportation modes shall be provided which are safe, secure, and convenient.

DIVISION 17. COMMON OPEN SPACE AND COMMON IMPROVEMENT REGULATIONS

Sec. 24.1-496. Applicability.

The regulations set forth in this division shall apply to the following features (referred to in this article as "common areas") in any development, except for timeshare resorts that comply with the requirements of section 24.1-472, where such features are proposed to be held in common ownership by the persons residing in or owning lots in the development:

- (a) All lands in common open space, not a part of individual lots, designed for the mutual benefit of persons residing in or owning lots in the development, whether or not such lands are required by the provisions of this chapter; and
- (b) All private streets, driveways, parking bays, drainage facilities, lakes, uses, facilities and buildings or portions thereof, as may be provided for the common use, benefit and enjoyment of the occupants of the development, whether or not such improvements are required by the provisions of this chapter.

Sec. 24.1-497. Declaration of covenants and restrictions.

Whenever a development includes common areas as described in section 24.1-496, the developer shall provide for and establish a nonprofit incorporated property owners association, or other legal entity under the laws of Virginia, for the ownership, care and maintenance of all such common areas.

- (a) Such association shall be governed by a declaration of covenants and restrictions (referred to in this section as the "declaration") running with the land and shall be composed of all persons having ownership within the development. Such association shall be responsible for the perpetuation, care, and maintenance of all common areas.
- (b) The covenants must provide that membership in the association by property owners shall be mandatory, and the association shall have the authority to, and shall assess its members for, such maintenance and improvements as set forth in the instrument creating the association, or as its members deem appropriate.
- (c) Voting membership in the association shall, in the case of a residential subdivision, be comprised of a single class, with the owners of lots casting one (1) vote per lot owned. In the case of a non-residential development, voting rights shall be clearly stipulated in the declaration. In no case shall the developer of a residential development control the association beyond ten (10) years of the first lot being conveyed to a person or entity other than the developer.
- (d) The declaration shall:

- (1) Describe and identify all common areas as to location, size, use and control.
 - (2) Set forth the method of assessment for the maintenance of the common areas.
 - (3) Control the availability of the common areas, ensure that land, facilities and other areas set aside for open space or common use may not be developed or used for an unapproved purpose in the future, and ensure that the common areas are maintained in their intended function in perpetuity unless and until the board by ordinance, authorizes and approves revisions.
 - (4) Set forth the schedule under which the developer must convey common property and facilities to the association. Such conveyance shall generally occur within thirty (30) days of completion of the facility unless otherwise stipulated in the declaration.
 - (5) Provide that the association shall not be dissolved nor shall such association dispose of any common areas by sale or otherwise, except to an organization conceived and organized to own and to maintain the common areas, without first offering to convey the same to the county or other appropriate governmental agency in exchange for compensation in an amount not exceeding the appraisal of a mutually acceptable appraiser.
 - (6) State that all covenant conditions required by this section shall remain in full force and effect unless the board of supervisors shall consent to an amendment of the declaration, or the county attorney shall verify that the requested amendment comports with the requirements of this section.
- (e) The declaration shall provide a clearly defined procedure for the county to ensure a remedy in the event the association or any successor organizations, shall at any time after the establishment of the development fail to maintain the common areas in reasonable order and condition in accordance with the plans approved by the County.

Sec. 24.1-498. Submission requirements.

- (a) Before a developer establishes a nonprofit organization as provided in section 24.1-497 above, the following documents shall be submitted to the county:
- (1) The articles of incorporation or other documents which will establish or create the nonprofit property owners association.
 - (2) The proposed declaration of covenants and restrictions.
 - (3) The proposed bylaws of the association.
- (b) The developer shall submit to the county, along with the required articles of incorporation (or similar documents) and declaration of covenants and restrictions, a certification by an attorney licensed to practice law in the Commonwealth of Virginia that the attorney has reviewed such documents and that they comply with:
- (1) the requirements of this article, and identifying where each requirement of section 24.1-497 is addressed;
 - (2) if applicable, the provisions of the Virginia Property Owners Association Act, section 55-508, et seq., Code of Virginia; and
 - (3) if applicable, the provisions of the Virginia Subdivided Land Sales Act of 1978, sections 55-336, et seq., Code of Virginia.

The attorney shall also certify that the common areas, when conveyed to the association, will be conveyed without encumbrances or liens, other than easements for public

utilities, and such other similar encumbrances as may be specifically identified in the declaration.

- (c) The county attorney shall review and approve for consistency with the requirements of this article the certification submitted in conformance with subsection (b) above, and the articles of incorporation (or similar documents) and the declaration of covenants and restrictions. The county attorney's approval shall be evidenced by signature on the documents submitted for recordation.
- (d) Any proposed amendments to the articles of incorporation or declaration of covenants and restrictions or actions that would establish encumbrances on the common area shall be submitted to and reviewed by the county attorney to ensure compatibility with the terms of this article. The county attorney's approval shall be evidenced by signature on the documents.

ARTICLE VI. OFF-STREET PARKING AND LOADING

Sec. 24.1-606. Minimum off-street parking and loading requirements.

Off-street parking spaces and loading spaces shall be provided in accordance with the minimum standards set forth in the following tables. These standards prescribe the minimum amount of parking and loading space that must be provided in conjunction with various uses and nothing shall prohibit the installation of more than the required minimums, provided however, that an additional twenty (20) landscape credits shall be provided/earned on the site for every ten (10) spaces in excess of the minimum number. Such additional landscaping shall be installed in the parking lot or around its perimeter

- (a) Category 1 - *Residential and related uses.*

USE	OFF-STREET PARKING SPACES	OFF-STREET LOADING SPACES
(1) Dwelling: single-family detached & duplex	Two (2) spaces per unit	None
(2) Dwelling: single-family attached (townhouse & multiplex)	Two (2) spaces per unit; plus One (1) space per three (3) units for visitor parking	None
(3) Dwelling: multi-family	One and one-half (1.5) spaces per unit; plus One (1) space per three (3) units for visitor parking.	None
(4) Manufactured Home on individual lot	Two (2) spaces per unit.	None
(5) Manufactured Home Park	Two (2) spaces per unit; plus One (1) space per three (3) units for visitor parking.	None
(6) Rooming, Boarding, Lodging House, Bed and	Two (2) spaces; plus One (1) space per each sleeping	None

USE	OFF-STREET PARKING SPACES	OFF-STREET LOADING SPACES
Breakfast, Tourist Home	room.	
(7) Group Home	Three (3) spaces, plus One (1) space per each two (2) beds:	None
(8) Senior Housing – Independent Living Facility	One (1) space per unit; plus one space per six (6) units for visitor parking	None
(9) Senior Housing – Congregate Care Facility, Assisted Living Facility	One (1) space per two (2) units; plus one space per six (6) units for visitors	None

(f) Category 6 - Institutional Uses

USE	OFF-STREET PARKING SPACES	OFF-STREET LOADING SPACES
(1) Church, temple, synagogue or similar place of worship	One (1) per each four (4) fixed seats in main assembly area; or One (1) space per each sixty (60) square feet of assembly area without fixed seats, whichever is greater.	None
(2) Hospital	One (1) space per every two (2) patient beds; plus One (1) space for every 350 square feet of administrative office space	One (1) space; plus one (1) for every loading dock/bay
(3) Nursing Home	One (1) space for every two (2) patient beds	One (1) space
(4) Emergency / First Care Clinic	Two (2) spaces per examining room; Plus One (1) space per 350 square feet of office/administrative space	None

(i) Category 9 – Recreation and Amusement Uses

USE	OFF-STREET PARKING SPACES	OFF-STREET LOADING SPACES
(1) Theater - indoor	Stand-alone: One (1) space per four (4) seats. In Shopping Center: One (1) space per eight (8) seats.	None

(2) Bingo Hall	One (1) space for each four (4) fixed seats or for each sixty (60) square feet of open assembly area	None
(3) Bowling Alley	Seven (7) spaces per lane; plus One (1) space per 100 square feet of restaurant and lounge space.	One (1) space
(4) Marinas, dry-stack boat storage facility	One (1) space per five (5) berths; plus One (1) space per 500 square feet of dry boat storage area; plus Two (2) spaces for every house boat mooring space. and, in no event, less than twenty (20) spaces for any marina having an accessory restaurant	One (1) space
(5) Country clubs, golf courses	One (1) space per 400 square feet of floor area in meeting rooms, lounges or similar assembly area; plus Five (5) spaces per golf hole	None
(6) Indoor Amusement Centers, Arcades, etc.	One (1) space for every 200 square feet of gross floor area	None
(7) Golf Driving Range	Three (3) spaces; plus One (1) space per tee	None
(8) Recreational or amusement establishments other than those specifically listed above	One (1) space per four (4) seats for fixed-seat facilities; or, One (1) space for every four (4) persons capacity based on the maximum occupancy load for the facility;	One (1) space if food or beverage services are offered

ARTICLE VII. SIGNS

Sec. 24.1-706. Off-premises directional signs.

- (a) The zoning administrator may authorize, by permit, the installation of off-premises directional signs for churches, civic organizations, governmental functions, hospital-based emergency centers and similar activities or establishments, subject to the following findings and conditions:
- (1) The location of the use to which the sign pertains prevents adequate identification by such signs as are normally permitted.
 - (2) The function of such signs shall be limited to directional or identification purposes.
 - (3) The location of such signs shall be consistent with the uses existing or permitted on the site of such sign. A written authorization from the owner of the property on which such sign is proposed to be located or a recorded easement per-

mitting the placement of the sign shall be submitted to the zoning administrator at the time of application for necessary permits.

- (4) Such signs shall be limited to a maximum area of eight (8) square feet and a maximum height of six (6) feet and shall comply with all other applicable provisions of this article. Not more than three (3) such signs shall be permitted for any single use. All off-premises directional signs, except those permitted under section 24.1-706(b) below, shall have a background color of green, blue or brown with white letters.

Sec. 24.1-710. Prohibited signs.

Unless specifically stated otherwise, the following signs shall not be permitted in the county:

- (a) Signs with moving, revolving or rotating parts, optical illusions of movement, mechanical movement of any description, or other apparent movement achieved by electrical, electronic, mechanical or natural means, but not including time, temperature and date signs, and traditional barber poles.
- (b) Signs with lights which flash, move, rotate, blink, flicker, or vary in either intensity or color.
- (c) Moored balloons or other floating signs that are tethered to a structure or the ground.
- (d) Pennants.
- (e) Portable signs, except those used in the specific instances authorized by permit by the terms of section 24.1-704. This provision shall not be construed to prohibit signs of reasonable size and proportion as determined by the zoning administrator, painted on or attached to automobiles, trucks, buses, trailers or other vehicles which are used in the normal course of business. It shall, however, be construed to prohibit the parking of vehicles or trailers on which signs are hung, or otherwise attached, when such parking is for display purposes intended to circumvent the provisions of this chapter. The removal of wheels and chassis assemblies from a portable message board sign with the intent of mounting it on posts shall not be sufficient to cause the sign to be permitted as a freestanding or wall sign.
- (f) Any sign which by reason of position, shape or color may interfere with, be confused with, or obstruct the view of any traffic sign, signal or device.
- (g) Advertising signs.

BE IT FURTHER ORDAINED that the York County Code be, and it is hereby, amended to add a new Chapter 23.2 entitled "Chesapeake Bay Preservation Areas" to read as follows:

Chapter 23.2

Chesapeake Bay Preservation Areas

Section 23.2-1. Statement of intent.

In accordance with the objectives of the comprehensive plan, and pursuant to the authority of Section 10.1-2100 et seq. of the Code of Virginia, this chapter is established and intended to promote the proper use, management and protection of the vast amounts of sensitive and unique lands which contribute to the economy of the region and the environmental quality of the county and especially the Chesapeake Bay. Specifically, these provisions are intended to

implement the requirements of the Chesapeake Bay Preservation Act and to address the following objectives:

- (a) Protect existing high quality state waters;
- (b) Restore all other state waters to a condition or quality that will permit all reasonable public uses and will support the propagation and growth of all aquatic life, including game fish, which might reasonably be expected to inhabit them;
- (c) Safeguard the clean waters of the Commonwealth from pollution;
- (d) Prevent any increase in pollution;
- (e) Reduce existing pollution; and
- (f) Promote resource conservation in order to provide for the health, safety, and welfare of the present and future citizens of the county.

The effect of these provisions is not necessarily to preclude development or use of such areas but rather to ensure that the types of development permitted by the underlying zoning district will be undertaken with a deliberate and professionally responsible recognition of the particular environmental qualities and conditions of a proposed development site.

Section 23.2-2. Definitions.

For the purposes of this chapter, the following terms shall have the following meanings unless the context clearly indicates otherwise:

Buffer Guidelines. Guidelines established in accordance with section 23.2-5 below that provide guidance concerning permissible activities within the resource protection area buffer.

Best management practices (BMPs). A practice, or a combination of practices, that is determined by a state agency or the Hampton Roads Planning District Commission to be the most effective, practicable means of preventing or reducing the amount of pollution generated by nonpoint sources to a level compatible with water quality goals.

CBPA Manager. The County Administrator, or his designated agent, who shall be responsible for certain reviews, analyses and decisions as specified in this chapter.

Chesapeake Bay Board, York County. *The York County Chesapeake Bay Board shall be comprised of the members of the York County Wetlands Board as established by Chapter 23.1 of the County Code.*

Chesapeake Bay Preservation Area (CBPA). Any land designated by the county pursuant to the Chesapeake Bay Preservation Area Designation and Management Regulations, (9 VAC 10-20-70 et seq.), and sections 10.1-2107, et seq., Code of Virginia of the Chesapeake Preservation Act, as they may be amended from time to time. The Chesapeake Bay Preservation Area consists of a Resource Protection Area (RPA) and a Resource Management Area (RMA).,

Chesapeake Bay Preservation Area Map (CBPA Map). A map to be used as a guide that shows the general location of CBPA areas. The map is on file in the office of the CBPA Manager and is hereby adopted by reference and declared to be part of this chapter. The Natural Resources Inventory will determine the exact boundaries of the CBPA.

Development. Any man-made change to improved or unimproved real estate including but not limited to buildings or other structures, excavating, mining, filling, grading or paving.

Development review process. The process for site plan, subdivision, land disturbing and building permit review to ensure compliance with section 10.1-2109, Code of Virginia and the York

County Code, prior to any clearing or grading of a site or the issuance of a building or land disturbing permit.

Floodplain. All lands which likely would be inundated by floodwater as a result of a storm event of a 100-year return interval.

Impervious cover. A surface composed of any material that significantly impedes or prevents natural infiltration of water into the soil. Impervious surfaces include, but are not limited to: roofs, buildings, decks, streets, parking areas, and any concrete, asphalt, or compacted aggregate surface.

Intensely developed area (IDA). CBPAs where development is concentrated and meets the conditions outlined in 9VAC 10-20-100 and so indicated on the CBPA map adopted by the Board of Supervisors and approved by the Chesapeake Bay Local Assistance Board.

Nonpoint source pollution. Pollution consisting of constituents such as sediment, nutrients, and organic and toxic substances from diffuse sources, such as runoff from agricultural and urban land use and development.

Nontidal wetlands. Those wetlands, other than tidal wetlands, that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, as defined by the US Environmental Protection Agency pursuant to Section 404 of the Federal Clean Water Act in 33 CFR 328.3b, as may be amended from time to time.

Noxious weeds. Weeds that are difficult to control effectively such as Johnson Grass, Kudzu, and multiflora rose.

Public Road. A publicly owned road and the appurtenant structures designed and constructed by the Virginia Department of Transportation.

Redevelopment. The process of developing land that is or has been previously developed.

Resource Management Area (RMA). That component of the Chesapeake Bay Preservation Area that is not classified as the Resource Protection Area or the Intensely Developed Area. The RMA is contiguous to and 500-foot landward of the Resource Protection Area or the extent of the 100-year floodplain, whichever is greater.

Resource Protection Area (RPA). That component of the Chesapeake Bay Preservation Area comprised of tidal wetlands; nontidal wetlands connected by surface flow and contiguous to tidal wetlands or water bodies with perennial flow; tidal shores; and a vegetated buffer not less than 100-feet in width located adjacent to and landward of the components listed above and along both sides of any water body with perennial flow. These lands have an intrinsic water quality value due to the ecological and biological processes they perform or are sensitive to impacts, which may result in significant degradation to the quality of state waters.

Silvicultural Activities. Forest management activities, including but not limited to the harvesting of timber, the construction of roads and trails for forest management purposes, and the preparation of property for reforestation that are conducted in accordance with the silvicultural best management practices developed and enforced by the State Forester pursuant to Section 10.1-1105 of the Code of Virginia and are located on property defined as real estate devoted to forest use under Section 58.1-3230 of the Code of Virginia.

Tidal shore (shore). Land contiguous to a tidal body of water between the mean low water level and the mean high water level.

Tidal wetlands. Vegetated and nonvegetated wetlands as defined in Section 28.2-1300 of the Code of Virginia.

Water Body with Perennial Flow. A body of water flowing in a natural or manmade channel year-round during a year of normal rainfall. This includes, but is not limited to, streams, estuaries, and tidal embayments and may include drainage ditches or canals constructed in wetlands or from former natural drainage ways, which convey perennial flow. Lakes and ponds, through which a perennial stream flows, are a part of the perennial stream. Generally, the water table is located above the streambed for most of the year and groundwater is the primary source for stream flow.

Water-dependent facility. A development of land that cannot exist outside of the Resource Protection Area and must be located on the shoreline by reason of the intrinsic nature of its operation. These facilities include, but are not limited to, ports, the intake and outfall structures of power plants, water treatment plants, sewage treatment plants, and storm sewers; marinas and other boat-docking structures; beaches and other public water-oriented recreation areas; and fisheries or other marine resources facilities.

Wetlands. Includes tidal and nontidal wetlands.

23.2-3 Applicability.

The special provisions established in this chapter shall apply to the areas designated by the Board of Supervisors as Chesapeake Bay Preservation Areas (CBPA) composed of Resource Protection Areas (RPA), Resource Management Areas (RMA) and Intensely Developed Areas (IDA). Such areas are designated, in general, on the CBPA Map, which is hereby adopted and made a part of this chapter by reference. The CBPA Map shows only the general location of the Chesapeake Bay Preservation Areas. It should be consulted by persons contemplating activities within the county prior to engaging in a regulated activity; however, the specific onsite location of the Chesapeake Bay Preservation Areas shall be delineated by the Natural Resources Inventory as required by section 23.2-6, below.

23.2-4. Use regulations.

Permitted uses, special permit uses, accessory uses, dimensional standards and special requirements shall be as established by the underlying zoning district, as established by Chapter 24.1, Zoning, of this Code.

23.2-5. Policies and Guidelines for Administering Chesapeake Bay Preservation Areas.

The CBPA Manager shall prepare such policies and guidelines not inconsistent with this chapter as may be necessary to ensure the proper use, management, and protection of the designated Chesapeake Bay Preservation Areas. Such policies and guidelines shall be subject to approval by the Board of Supervisors, shall be kept on file in the CBPA Manager's office and may be amended by resolution of the Board from time to time as conditions warrant. In the event situations arise that necessitate adjustments or supplements to such policies, the CBPA Manager may promulgate interim guidelines. Such interim guidelines shall be submitted to the Board of Supervisors within 180 days after establishment and shall stand until the Board actually approves, disapproves or modifies such interim guidelines.

23.2-6. Natural Resources Inventory requirements.

Natural Resources Inventory: An inventory of site conditions and environmental features, prepared and submitted in accordance with the provisions established herein, shall be required for all properties proposed for development.

- (a) The inventory shall be prepared and certified by a professional qualified to perform environmental inventories. Evidence of the professional qualifications of the person preparing the inventory shall be submitted as a part of the inventory. In the case of

construction of individual single-family detached dwellings, the inventory shall be required; however, professional preparation or certification shall not be required except for perennial stream flow determination or unless professional involvement is deemed necessary by the CBPA Manager because of the magnitude of land disturbance or the particular sensitivity of the location. Subdivisions effected through the Subdivision Ordinance shall comply fully with the terms of this chapter.

- (b) The inventory shall contain a plan sheet that clearly depicts the extent and location of any of the following features: manmade and natural bodies of water including but not limited to rivers, creeks, streams, channels, ditches, lakes and ponds; floodplains; tidal and nontidal wetlands; and tidal shores.
- (c) The applicant is responsible for having a site-specific in-field determination for perennial flow made by a qualified professional. The CBPA Manager shall confirm the site-specific in-field perennial flow determination. For the purpose of determining whether water bodies have perennial flow, a state approved, scientifically valid system of in-field indicators of perennial flow must be used.
- (d) The inventory shall contain a classification of any wetlands present on the site. Wetlands delineations shall be performed in accordance with the comprehensive onsite determination method specified in the Federal Manual for Identifying and Delineating Jurisdictional Wetlands, 1987, as it may be amended from time to time.
- (e) The exact boundaries of the RPA and RMA shall be adjusted, as necessary, based on the site-specific in-field evaluation and the Inventory and shall be depicted on the plan.
- (f) The Inventory shall be submitted to the CBPA Manager for review and approval prior to or concurrent with the submission of applications for site plans, subdivision plans, land disturbing permits, building permits or any other activity that constitutes development. The CBPA Manager shall not approve the submitted documents unless the site conditions and environmental features inherent on the site have been identified as deemed appropriate by the CBPA Manager.

23.2-7 Special performance standards.

Proposed development or redevelopment within Chesapeake Bay Preservation Areas shall be planned and undertaken in accordance with the following standards, depending on the type(s) of natural features and resources present on the site:

- (a) All provisions of chapter 23.1, Wetlands, County Code, shall be observed where applicable.
- (b) All construction within flood plain areas shall be in accordance with the requirements of section 24.1-373 of the County Code, the Uniform Statewide Building Code and any special requirements of the National Flood Insurance Program applicable to such area.
- (c) *Lot size.* Lot size shall be subject to the requirements of the underlying zoning district(s), provided, however, that any newly created lot shall have sufficient area outside the RPA within which to accommodate the intended development in full accordance with the performance standards in this chapter so that no land disturbance will occur in the RPA, except for such development otherwise specifically allowed in the RPA by this chapter. On newly created lots, principal buildings shall be located at least ten (10) feet from the RPA buffer.
- (d) *RPA Boundary Delineation:* The boundary of the RPA shall be delineated by temporary construction fencing on any development site subject to the provisions of this chapter. In addition the property owner/developer shall be responsible for posting permanent signage identifying the landward limits of the RPA. The signs will be provided by the County and shall be posted at such locations as are approved by the County and identified on the site development plan.

- (e) No more land shall be disturbed than is necessary to provide for the proposed use or development.
- (f) All land development shall minimize impervious cover consistent with the proposed use or development.
- (g) Existing vegetation shall be preserved to the maximum extent practicable consistent with the use or development proposed.
- (h) Any activity which will cause more than 2,500 square feet of land disturbance, including construction of single-family houses and installation of septic tanks and drainfields, shall comply with the requirements of chapter 10, Erosion and Sediment Control and all other aspects of the county development review process.
- (i) Stormwater management criteria consistent with the water quality protection provisions (4VAC 3-20-10 et seq.) of the Virginia Stormwater Management Regulations (4 VAC 3-20), as they may be amended from time to time, shall be satisfied.
 - 1. For new development, the post-development nonpoint source pollution runoff load shall not exceed the predevelopment load, based on the Chesapeake Bay default value for phosphorus loading of 0.45 pounds/acre/year and an equivalent impervious cover of sixteen percent.
 - 2. For sites within IDA's or other isolated redevelopment sites, the existing nonpoint source pollution load shall be reduced by at least ten percent (10%). The CBPA Manager may waive or modify this requirement for redevelopment sites that originally incorporated best management practices for stormwater runoff quality control, provided, however, that in no case may the post-development nonpoint source pollution runoff load exceed the predevelopment load.
 - 3. Any maintenance, alteration, use or improvement to an existing structure which does not increase the impervious area nor degrade the quality of surface water discharge, as determined by the CPBA Manager, may be exempted from the requirements of this section.
- (j) The functionality and maintenance of best management practices shall be ensured by the owner or developer through a maintenance agreement, approved as to form by the county attorney, whereby the owner shall covenant to perform perpetual maintenance of any such BMP and grant authority to the county to perform such work at the owner's cost if the owner should default on his obligations. The owner or developer shall cause such agreement to be recorded by the clerk of the circuit court and provide evidence of such recordation to the CBPA Manager.
- (k) All on-site sewage soil absorption systems not requiring a Virginia Pollution Discharge Elimination System (VPDES) permit shall be pumped out at least once every five years or otherwise maintained in accordance with Section 18.1-40(f) of the County Code.
- (l) A secondary sewage soil absorption area with a capacity at least equal to that of the primary absorption area shall be provided for every lot proposed for development where public sanitary sewer is not available in accordance with Section 18.1-40(c) of the County Code. Building or construction of any impervious surface shall be prohibited on the area of all sewage disposal sites, including the secondary sewage soil absorption area, until the lot is served by public sewer.
- (m) Land upon which agricultural activities are being conducted, including but not limited to crop production, pasture, dairy and feedlot operations or lands otherwise defined as agricultural, shall have a soil and water quality conservation assessment conducted and approved in accordance with the CBPA Regulations (9VAC10-20-120.9), as may be amended from time to time.

- (n) Silvicultural activities in the CBPA are exempt from this chapter provided that silvicultural operations adhere to water quality protection procedures prescribed by the Virginia Department of Forestry in the "Virginia's Forestry Best Management Practices for Water Quality" as may be amended from time to time.
- (o) Prior to initiating grading or other on-site development activities on any portion of a lot, all wetlands permits required by federal, state, and county laws and regulations shall be obtained and evidence of such submitted to the CBPA Manager.

23.2-8. Water Quality Impact Assessments (WQIA).

- (a) A water quality impact assessment (WQIA) shall be required for:
 - (1) Any proposed land disturbance, development or redevelopment activity within a RPA as permitted by this chapter;
 - (2) Any buffer modification, noncomplying use and development waiver, exception, exemption, allowable land development or encroachment as provided for in this chapter;
 - (3) Any development activity in the RMA as deemed necessary by the CBPA Manager due to the unique site characteristics or intensity of the proposed use or development.
- (b) The purpose of the WQIA is to:
 - (1) Identify the impacts of proposed land disturbance, development or redevelopment on water quality and lands in the RPA and other environmentally sensitive lands;
 - (2) Ensure that where land disturbance, development or redevelopment does take place within the RPA and other sensitive lands, it will occur on those portions of the site and in a manner that will be least disruptive to the natural functions of the RPA and other sensitive lands;
 - (3) Provide documentation for requests for development approval or administrative relief from terms of this chapter when warranted and in accordance with the requirements contained herein; and
 - (4) Specify mitigation that will address water quality protection.
- (c) A WQIA shall include a narrative and site drawings that address the evaluation criteria and that depict, address and includes the following:
 - (1) Location of the components of the RPA;
 - (2) Location and nature of the proposed encroachment, noncomplying use or development waiver, exception, exemption, allowable land development or modification of the buffer area, including: type of paving material; areas of clearing; filling or grading; location of any structures, drives, or other impervious cover; and sewage disposal systems or reserve drainfield sites;
 - (3) Type and location of proposed best management practices and supporting calculations to mitigate any proposed encroachment and/or modification;
 - (4) Location of existing vegetation, including the number and type of trees and other vegetation in the buffer proposed to be removed to accommodate the encroachment, noncomplying use and development waiver, exception, exemption, allowable land development or modification, and number and type of trees to remain;

- (5) Revegetation plan that supplements the existing buffer vegetation and specifies the proposed replacement vegetation in accordance with the Buffer Guidelines;
 - (6) Erosion and sediment control and construction sequencing; and
 - (7) A copy of all required permits from all applicable agencies necessary to develop the project or a status of the acquisition of each.
- (d) The WQIA shall be submitted to the CBPA Manager for review and approval concurrent with the submission of applications for review and approval of site plans, subdivision plans, applications for land disturbing activity permits, building permits, buffer modification, buffer encroachment, noncomplying use and development waiver, allowable land development, exemptions or exceptions.
 - (e) Upon completing review of a WQIA the CBPA Manager will determine whether the proposed buffer modification, buffer encroachment, noncomplying use and development waiver, allowable land development, exemption, or application for a exception is consistent with the provisions of this chapter and make a finding based upon the following evaluation criteria:
 - (f) The CPBA Manager may require additional mitigation where potential impacts have not been adequately addressed.

23.2-9. RPA buffer area requirements.

- (a) To minimize the adverse effects of human activities on the other components of the RPA, state waters, and aquatic life, a 100-foot wide buffer area of vegetation as described in the Buffer Guidelines shall be provided. The purpose of the buffer is to retard runoff, prevent erosion, and filter nonpoint source pollution from runoff and it shall be retained if present and established where it does not exist in accordance with the Buffer Guidelines.
- (b) For purposes of calculating the impact of the proposed development on water quality, the required 100-foot wide RPA buffer area shall be deemed to achieve a 75 percent reduction of sediments and a 40 percent reduction of nutrients.
- (c) Where land uses such as agriculture or silviculture within the area of the buffer cease and the lands are proposed to be converted to other uses, the full 100-foot wide buffer shall be reestablished. In reestablishing the buffer, management measures shall be undertaken to provide woody vegetation that assures the buffer functions set forth in this chapter. Reestablishment must be accomplished in accordance with the Buffer Guidelines, as may be amended from time to time.
- (d) Permitted modifications of the buffer area:

Existing woody vegetation may be removed to provide for reasonable sight lines, access paths, and shoreline erosion control best management practices, if authorized by the CBPA Manager, on a case-by-case basis, upon submittal of a WQIA documenting that the RPA buffer functions will be maintained and vegetation will be replaced.

- (1) Trees may be thinned and pruned for sight lines, provided that where removed, they shall be replaced with other vegetation that is equally effective in retarding runoff, preventing erosion, and filtering nonpoint source pollution from runoff in accordance with the Buffer Guidelines.
- (2) Any access path shall be constructed and surfaced so as to effectively control erosion and aligned to minimize tree removal and environmental impact.

- (3) For approved shoreline erosion control best management practices, trees and woody vegetation may be removed, necessary control techniques employed, and appropriate vegetation established to protect or stabilize the shoreline in accordance with the best available technical advice, applicable permit conditions or requirements and in accordance with the Buffer Guidelines.
- (4) Dead or diseased trees or shrubbery may be removed pursuant to sound horticultural practice in accordance with the Buffer Guidelines.
- (5) The following modifications to the buffer do not require a WQIA or plan approval if performed as described in the Buffer Guidelines:
 - a. Home landscaping such as pruning, mowing, mulching; and
 - b. Removal of noxious weeds provided they are replaced with vegetation equally suited for the growing environment and no land disturbance takes place.
- (e) On land used for agricultural purposes, the agricultural buffer area shall be managed to prevent concentrated flows of surface water from breaching the buffer area and noxious weeds from invading the buffer area. Agricultural activities may encroach into the buffer area provided that the provisions of Virginia's Chesapeake Bay Preservation Area Designation and Management Regulations (Section 9 VAC 10-20-130.5b 1-5 and 10-20-120.9) as they may be amended from time to time, are met.
- (f) Permitted encroachments into the buffer area:
 - (1) When the application of the RPA buffer would result in the loss of an adequate, as determined by the CBPA Manager, buildable area on a lot or parcel legally created prior to October 1, 1989, the CBPA Manager may permit an encroachment into the buffer area in accordance with following criteria:
 - a. Encroachments into the buffer area shall be the minimum necessary to achieve a reasonable buildable area for a principal structure and necessary utilities. Detached accessory structures shall not be eligible for encroachment authorizations.
 - b. Where practicable, a vegetated area that will maximize water quality protection, mitigate the effects of the buffer encroachment, and is equal to the area of encroachment into the buffer area shall be established elsewhere on the lot.
 - c. The encroachment may not extend into the seaward 50 feet of the buffer area.
 - d. Encroachments into the buffer processed through an administrative review shall be subject to the findings required by subsection 23.2-13 but without the requirement for a public hearing, such findings to be made instead by the CBPA Manager.
 - (2) When the application of the buffer area would result in the loss of a buildable area on a lot or parcel recorded between October 1, 1989 and March 1, 2002, or on a lot or parcel legally created prior to January 1, 2004, and effected by a perennial stream determination, encroachments into the buffer area may be allowed through an administrative process in accordance with the following criteria:
 - a. The lot or parcel was created as a result of a legal process conducted in conformity with the County's subdivision regulations;
 - b. Conditions or mitigation measures imposed through a previously approved exception shall be met;

- c. If the use of a BMP was previously required, the BMP shall be evaluated to determine if it continues to function effectively and if necessary the BMP shall be reestablished or repaired and maintained as required; and
 - d. The criteria of subdivision (f)(1) of this section shall be met.
- (g) Redevelopment within IDA's may be exempt from the RPA buffer requirement in accordance with the development review process, provided that the water quality standards found in section 23.2-7 Performance Standards, can be achieved.
- (h) Nothing contained herein shall be construed to prevent an RPA buffer area from being used to fulfill minimum open space standards required in chapter 24.1, Zoning, County Code.

23.2-10. Allowable Land Development in RPA

Land development may be allowed in the RPA, subject to CBPA Manager review and approval, only if it is one or more of the following:

- (a) Is a new or expanded water-dependent facility provided:
 - (1) It does not conflict with the comprehensive plan;
 - (2) It complies with the performance criteria set forth in this chapter;
 - (3) Any non-water-dependent component is located outside of the RPA; and
 - (4) Access through the RPA to the water dependent facility will be provided with the minimum disturbance necessary. Where practicable, a single point of access will be provided.
- (b) Constitutes redevelopment outside of an IDA and there is no increase in impervious area in the RPA, no further encroachment in the RPA and all applicable erosion and sediment control and stormwater management criteria are observed.
- (c) Constitutes development or redevelopment within an IDA.
- (d) Is a new use established pursuant to subsection 23.2-9(f) or is an addition or alteration to a noncomplying structure allowed pursuant to section 23.2-12.
- (e) Is a road or driveway crossing not exempt under section 23.2-11, below, and which complies with the provisions of this chapter, provided further:
 - (1) The CBPA Manager makes a finding that there are no reasonable alternatives to aligning the road or driveway in or across the RPA.
 - (2) The alignment and design of the road or driveway are optimized, consistent with other applicable requirements, to minimize encroachment in the RPA and adverse effects on water quality.
 - (3) The design and construction of the road or driveway satisfies all applicable criteria of this chapter, including submission of a WQIA; and
 - (4) The CBPA Manager reviews the plan for the road or driveway proposed in or across the RPA in conjunction with a site plan, subdivision plan, and land disturbing or building permit application.
- (f) Is a flood control or stormwater management facility that drains or treats water from multiple development projects or from a significant portion of a watershed provided:

- (1) The county has conclusively established that location of the facility within the RPA is the optimum location;
 - (2) The size of the facility is the minimum necessary to provide necessary flood control, stormwater treatment, or both;
 - (3) The facility must be consistent with a stormwater management program that has been approved by the Chesapeake Bay Local Assistance Board as a Phase I modification to the county's program;
 - (4) All applicable permits for construction in state or federal waters must be obtained from the appropriate local, state and federal agencies, such as the U.S. Army Corps of Engineers, the Virginia Department of Environmental Quality, the York County Wetlands Board and the Virginia Marine Resources Commission;
 - (5) Approval must be received from the County prior to construction; and
 - (6) Routine maintenance is allowed to be performed on such facilities to assure that they continue to function as designed.
 - (7) It is not the intent of this subsection to allow a BMP that collects and treats runoff from only an individual lot or some portion of the lot to be located within a RPA.
- (g) This chapter shall not be construed to prevent pre-existing structures damaged or destroyed as a result of a casualty loss beyond the control of the owner from being reconstructed within Chesapeake Bay Preservation Areas, unless otherwise restricted by County Code.

23.2-11. Exemptions in Resource Protection Areas (RPA)

- (a) Exemptions for public utilities, railroads, and public roads and facilities.
- (1) Construction, installation, operation, and maintenance of electric, natural gas, fiber-optic, telephone transmission lines, railroads, and public roads and their appurtenant structures in accordance with regulations promulgated pursuant to the Erosion and Sediment Control Law (section 10.1-560, et seq., Code of Virginia) and the Stormwater Management Act (Section 10.1-603.1 et seq, Code of Virginia) or an erosion and sediment control plan and a stormwater management plan approved by the-Virginia Department of Conservation and Recreation will be deemed to constitute compliance with this chapter. The exemption of public roads is further conditioned on the following:
 - a. Optimization of the public road alignment and design, consistent with other applicable requirements, to prevent or otherwise minimize encroachment in the RPA and adverse effects on water quality.
 - (2) Construction, installation, and maintenance of water, sewer, natural gas and underground telecommunications and cable television lines owned, permitted or both by a local government or regional service authority shall be exempt from the criteria in this part provided that:
 - a. To the degree possible, the location of such utilities and facilities shall be outside the RPA;
 - b. No more land shall be disturbed than is necessary to provide for the proposed utility installation;

- c. All construction, installation, and maintenance of such utilities and facilities shall be in compliance with all applicable state and federal requirements and shall be designed and conducted in a manner that protects water quality; and
 - d. Any land disturbance exceeding an area of 2,500 square feet shall comply with all erosion and sediment control requirements.
- (3) Water wells, passive recreation facilities such as publicly, community or homeowner association owned boardwalks, trails, and walkways, and historic preservation and archaeological activities located in the RPA may be exempted from the provisions of this chapter provided that it is demonstrated to the satisfaction of the CBPA Manager that:
- a. Any required permits, except those to which this exemption specifically applies, have been obtained;
 - b. Sufficient and reasonable proof is submitted to establish that the intended use will not cause a deterioration in water quality;
 - c. The intended use does not conflict with nearby planned or approved uses; and
 - d. Any land disturbance exceeding an area of 2,500 square feet will comply with chapter 10, Erosion and Sediment Control, of this code.

It is not the intent of this subsection to exempt private boardwalks, trails or walkways on an individual lot from the requirements of this chapter.

23.2-12 Noncomplying use and development waivers.

The lawful use of a principal building or structure which existed on September 20, 1990, or which exists at the time of any amendment to this chapter, and which is not in compliance with the provisions of this chapter or such amendment thereto, may be continued in accordance with article VIII of chapter 24.1 of the County Code.

No alteration or expansion of any noncomplying structure shall be allowed except in accordance with the following:

- (a) The CBPA Manager may grant a noncomplying use and development waiver for legally existing principal structures on lots not in compliance with CBPA standards to provide for alterations and additions to such noncomplying structures provided that:
 - (1) There will be no increase in the nonpoint source pollution load;
 - (2) Any development or land disturbance exceeding an area of 2,500 square feet complies with all erosion and sediment control requirements of chapter 10, Erosion and Sediment Control, of this code; and
 - (3) Accessory structures or additions to accessory structures shall not be authorized by noncomplying use and development waivers.
- (b) An application for a noncomplying use and development waiver shall be made to the CBPA Manager and shall include, for the purpose of proper enforcement of this section, the following information:
 - (1) Name and address of applicant and property owner;
 - (2) Legal description of the property and type of proposed use and development;

- (3) A sketch of the dimensions of the lot or parcel, location of buildings and proposed additions relative to the lot lines, and boundary of the resource protection area;
 - (3) Location and description of any existing private water supply or sewage disposal system; and
 - (4) A WQIA, BMP plan and buffer restoration plan as deemed necessary by the CBPA Manager.
- (c) A noncomplying use and development waiver shall become null and void five (5) years from the date issued if no substantial work, as determined by the CBPA Manager, has commenced.
- (d) Noncomplying use and development waivers for legally existing principal structures processed through an administrative review of the application shall be subject to the findings required by subsection 23.2-13, such findings to be made by the CBPA Manager, but without the requirement for a public hearing.

23.2-13 Exceptions.

- (a) Requests for exceptions from the CBPA requirements of section 23.2-7, 23.2-8, 23.2-9, 23.2-10 and/or 23.2-11 shall be made by application to the York County Chesapeake Bay Board. The board shall identify the impact of the proposed exception on water quality and on lands within the RPA based on the natural resources inventory, mitigation measures and WQIA which complies with the provisions of this chapter and which shall be submitted by the applicant at the time of application.
- (b) No later than 60 days after receipt of a complete exception application, the Board shall hold a public hearing on the request. The board shall notify the affected public of any such exception requests and shall consider these requests at a public hearing advertised in accordance with the requirements of Section 15.2-2204 of the Code of Virginia, except that only one hearing will be required. Also when giving any required notice to the owners, their agents, or the occupants of abutting property and property immediately across the street or road from the property affected, the notice shall be given by first-class mail to the last known address as shown on the current real estate tax assessment book or records.
- (c) Exceptions to the CBPA requirements may be granted by the Chesapeake Bay Board provided that a finding is made that:
 - (1) The requested exception is the minimum necessary to afford relief;
 - (2) Granting the exception will not confer upon the applicant any special privileges that are denied to other property owners who are subject to these provisions and similarly situated;
 - (3) The exception is in harmony with the purpose and intent of the CBPA Act and is not of substantial detriment to water quality;
 - (4) The exception request is not based upon conditions or circumstances that are self-created or self-imposed;
 - (5) Reasonable and appropriate conditions are imposed, as warranted, that will prevent the allowed activity from causing a degradation of water quality; and
 - (6) Other findings, as recommended by the CBPA Manager and deemed appropriate by the board, are met.

- (d) The board shall review the application for a exception and the submitted natural resources inventory and WQIA and may grant a exception to the requirements provided the above findings are made.
- (e) In granting a exception, the board may impose reasonable and appropriate conditions as the board deems necessary to further the purpose and intent of this chapter and the Chesapeake Bay Preservation Act.

23.2-14 Applications for exceptions.

Applications for exceptions shall be made in writing and shall include the following:

- (a) Name and address of applicant and property owner;
- (b) Legal description of the property and type of proposed use and development;
- (c) A sketch of the dimensions of the lot or parcel, location of the buildings and proposed improvements;
- (d) A Water Quality Impact Assessment completed in accordance with Section 23.2-8; and
- (e) A nonrefundable processing fee of \$250.00 shall accompany each application to cover the cost of processing.

23.2-15 Granting Exceptions

The Chesapeake Bay Board may grant exceptions as set forth herein. Exceptions granted by the board will become null and void if the proposed project is not completed within five years. The board shall make its determination within 65 days of the hearing; and if the board fails to act within this time frame the application shall be deemed to be approved.

23.2-16 Appeals

- (a) An owner of a property subject to an administrative decision, order or requirement under this chapter may appeal by submitting a written application for review to the Chesapeake Bay Board no later than 30 days from the rendering of such decision, order or requirement. The board shall hear the appeal as soon as practical after receipt of the application.
- (b) In rendering its decision, the board shall:
 - (1) Examine the language of this chapter to determine whether the language is clear or is subject to more than one interpretation;
 - (2) If, in the opinion of the board, the language is clear, the board will require the applicant to show that his case is not within the intent of the regulation. In these cases, the board will assume that the administrative decision is correct and the applicant will bear the burden of proof;
 - (3) If the language of this chapter is unclear, the board will inquire as to whether the decision made by the official involved is consistent with previous administrative determinations in similar situations;
 - (4) If the administrative decision is consistent with prior decisions, the applicant will prevail only if the administrative decision is not within the intent and purpose of the ordinance and, therefore, so arbitrary or unreasonable that the board must substitute its own interpretation and overturn the administrative

decision. If the administrative decision is both consistent and reasonable, the board will uphold it;

- (5) If the administrative decision is inconsistent with prior decisions, the Board will carefully examine all factors involved to ensure that the appearance of an arbitrary decision is overcome by a legitimate attempt to further the intent and purpose of this chapter.

In applying these guidelines, the board will consider any pertinent factors that arise during the public hearing.

- (c) An owner of a property subject to a board decision, order or requirement may appeal to the Circuit Court.

23.2-15 Violations

- (a) Any person who engages in development or redevelopment within a CBPA or modifies the buffer within a RPA without first receiving approval for such activity as prescribed by this chapter shall be in violation of this chapter.
- (b) Any person who violates any conditions of an allowed encroachment, buffer modification, noncomplying use and development waiver, exception, exemption or allowable land development or exceeds the scope of any approval of any authorized activity or who fails to comply with any other provision of this chapter shall be in violation of this chapter.

23.2-16 Civil penalties

- (a) Any person who violates any provision of this chapter or violates, fails, neglects, or refuses to obey any county notice, order, rule, regulation, exception, or permit condition authorized under this chapter shall, upon such finding by an appropriate circuit court, be assessed a civil penalty not to exceed \$5,000 for each day of violation. Such civil penalties may, at the discretion of the court assessing them, be directed to be paid into the treasury of the county for the purpose of abating environmental damage to or restoring the CBPA therein, in such a manner as the court may direct by order, except that where the violator is the county itself or its agent, the court shall direct the penalty to be paid into the state treasury.
- (b) With the consent of any person who violates any provision of this chapter or violates, fails, neglects, or refuses to obey any county notice, order, rule, regulation, exception or permit condition authorized under this chapter, the county may provide for the issuance of an order against such person for the one-time payment of civil charges for each violation in specific sums, not to exceed \$10,000 for each violation. Such civil charges shall be paid into the treasury of the county for the purpose of abating environmental damage to or restoring the CBPA, except that where the violator is the county itself or its agent, the civil charges shall be paid into the state treasury. Civil charges shall be in lieu of any appropriate civil penalty that could be imposed under subdivision (a) of this section. Civil charges may be in addition to the cost of any restoration required or ordered by the county.

BE IT STILL FURTHER ORDAINED that, in addition to any rights as may be vested by virtue of applicable law, any development proposal for which a complete site plan has been submitted to and accepted for review by the County by this date, or any development proposal for which an official pre-application conference has been conducted by the Department of Environmental and Development Services by this date, shall not be required to comply with the amended provisions adopted herein.

BE IT STILL FURTHER ORDAINED that the Board confirms its legislative intent that the York County Chesapeake Bay Board shall be comprised of the members of the York County Wetlands Board, and are hereby appointed as such, and that henceforth such board shall hear and decide all such matters as are assigned to it under the terms of Chapter 23.2 of the York County Code as hereby adopted, and that this ordinance shall be interpreted as an effective repeal of any ordinance provision to the contrary notwithstanding, provided, however, that any Chesapeake Bay Preservation Area matter that has previously been filed and advertised for action by the Board of Zoning Appeals shall remain within the jurisdiction of the Board of Zoning Appeals until the matter is concluded.

On roll call the vote was:

Yea: (5) Zaremba, Noll, Bowman, Shepperd, Burgett
Nay: (0)

APPLICATION NO. ZM-93-05, YORK COUNTY BOARD OF SUPERVISORS

Mr. Carter gave a presentation on Application No. ZM-93-05 to establish General Business classifications for certain properties annexed into the York County jurisdictional boundaries by virtue of the February 2003 boundary line adjustment agreement between the City of Williamsburg and York County. The Planning Commission considered the application and forwarded it to the Board of Supervisors with a recommendation of approval, and staff recommended approval of the application through the adoption of proposed Ordinance No. 05-12.

Chairman Burgett called to order a public hearing on Application No. ZM-93-05 that was duly advertised as required by law. Proposed Ordinance No. 05-12 is entitled:

AN ORDINANCE TO APPROVE APPLICATION NO. ZM-93-05 WHICH PROPOSES AMENDMENT OF THE YORK COUNTY ZONING MAP TO RECLASSIFY ASSESSOR'S PARCEL NO. 18-23J FROM RC-RESOURCE CONSERVATION TO RR-RURAL RESIDENTIAL, AND TO ESTABLISH A GB-GENERAL BUSINESS CLASSIFICATION FOR PORTIONS OF ASSESSOR'S PARCEL NOS. 5B-1-1A, 9-6-C2, 9-6-C1, 9-3-A, 9-6-C21, 9-3B, 9-4, 9-4A, 9-5 AND 9-6, SAID AREAS BEING THE PORTIONS OF THE SUBJECT PROPERTIES THAT WERE ADJUSTED INTO THE JURISDICTIONAL BOUNDARIES OF THE COUNTY PURSUANT TO THE FEBRUARY 2003 BOUNDARY ADJUSTMENT AGREEMENT BETWEEN THE CITY OF WILLIAMSBURG AND YORK COUNTY

There being no one present who wished to speak concerning the subject Ordinance, Chairman Burgett closed the public hearing.

Mrs. Noll then moved the adoption of proposed Ordinance No. 05-12 that reads:

AN ORDINANCE TO APPROVE APPLICATION NO. ZM-93-05 WHICH PROPOSES AMENDMENT OF THE YORK COUNTY ZONING MAP TO RECLASSIFY ASSESSOR'S PARCEL NO. 18-23J FROM RC-RESOURCE CONSERVATION TO RR-RURAL RESIDENTIAL, AND TO ESTABLISH A GB-GENERAL BUSINESS CLASSIFICATION FOR PORTIONS OF ASSESSOR'S PARCEL NOS. 5B-1-1A, 9-6-C2, 9-6-C1, 9-3-A, 9-6-C21, 9-3B, 9-4, 9-4A, 9-5 AND 9-6, SAID AREAS BEING THE PORTIONS OF THE SUBJECT PROPERTIES THAT WERE ADJUSTED INTO THE JURISDICTIONAL BOUNDARIES OF THE COUNTY PURSUANT TO THE FEBRUARY 2003 BOUNDARY ADJUSTMENT AGREEMENT BETWEEN THE CITY OF WILLIAMSBURG AND YORK COUNTY

WHEREAS, Application No. ZM-93-05, sponsored by the Board of Supervisors, proposes the reclassification from RC - Resource Conservation to RR - Rural Residential of a 3.3-acre parcel located at the intersection of Goosley Road (Route 238) and Route 17 being further identified as Assessor's Parcel No. 18-23J and owned by the Trustees of Shiloh Baptist Church; and

WHEREAS, said application also proposes to establish a GB-General Business classification on the portions of various properties that were adjusted into the jurisdictional boundaries of York County pursuant to a February 2003 voluntary boundary line adjustment agreement between the City of Williamsburg and York County, said properties being portions of Assessor's Parcel Nos. 5B-1A, 9-6-C2, 9-6-C1, 9-3-A, 9-6-C21, 9-3B, 9-4, 9-4A, 9-5, and 9-6; and

WHEREAS, said application has been referred to the York County Planning Commission in accordance with applicable procedure; and

WHEREAS, the Planning Commission has conducted a duly advertised public hearing on this application and has recommended approval; and

WHEREAS, the Board of Supervisors has carefully considered the public comments and recommendations of the Planning Commission and staff with respect to this application;

NOW, THEREFORE, BE IT ORDAINED by the York County Board of Supervisors this the 17th day of May, 2005, that Application No. ZM-93-05 be, and it hereby is, approved to amend the York County Zoning Map as follows:

Reclassify from **RC - Resource Conservation to RR - Rural Residential** a 3.3-acre parcel located at the intersection of Goosley Road (Route 238) and Route 17, being further identified as Assessor's Parcel No. 18-23J, and owned by the Trustees of Shiloh Baptist Church.

Establish **GB-General Business** classifications for the following properties that were annexed into the York County jurisdictional boundaries by virtue of the February 2003 boundary line adjustment agreement between the City of Williamsburg and York County:

Parcel No. 0005B-1-1A, 2225 Richmond Road; n/f owned by Satyam Shivam Sunderam, LLC.:

An 873 square-foot portion of the northwest corner of the subject property, as identified on the plat entitled "Jurisdictional Boundary Adjustment Between York County, Virginia and City of Williamsburg, Virginia, Sheet 1 of 1," prepared by Precision Measurements, Inc., and dated April 11, 2002.

Parcel No. 009-6-C2, 3012 Mooretown Road; n/f owned by Kingsgate Greene, Ltd.: An approximately 1,200 square-foot portion of the subject property located within the Kingsgate Parkway private street right-of-way at its intersection with Mooretown Road and delineated on the plat entitled "Jurisdictional Boundary Adjustment Between York County, Virginia and City of Williamsburg, Virginia, Sheet 1 of 2," prepared by Precision Measurements, Inc, and dated April 15, 2002.

Parcel No. 009-6-C1, 3006 Mooretown Road; n/f owned by W & H Realty, Inc.: An approximately 10,000 square-foot portion of the subject property located along its Mooretown Road frontage and delineated on the plat entitled "Jurisdictional Boundary Adjustment Between York County, Virginia and City of Williamsburg, Virginia, Sheet 1 of 2," prepared by Precision Measurements, Inc, and dated April 15, 2002.

Parcel No. 009-3-A, 118 Waller Mill Road; n/f owned by Colonial Properties Partnership, Inc.: An approximately 500 square-foot portion of the subject property located at its southwest corner and along its Mooretown Road frontage and delineated on the plat entitled "Jurisdictional Boundary Adjustment Between York County, Virginia and City of Williamsburg, Virginia, Sheet 1 of 2," prepared by Precision Measurements, Inc, and dated April 15, 2002.

Parcel No. 009-6-C21, 2009 Mooretown Road; n/f owned by Pirates Cove Williamsburg, Inc.: An approximately 40,000 square-foot portion of the subject property, located on the south side

of Mooretown Road and delineated on the plat entitled "Jurisdictional Boundary Adjustment Between York County, Virginia and City of Williamsburg, Virginia, Sheet 1 of 2," prepared by Precision Measurements, Inc, and dated April 15, 2002.

Parcel No. 009-3B, 2005 Mooretown Road; n/f owned by Michel Real Estate Partnership: An approximately 15,000 square-foot portion of the subject property, located on the north side of Bypass Road and delineated on the plat entitled "Jurisdictional Boundary Adjustment Between York County, Virginia and City of Williamsburg, Virginia, Sheet 1 of 2," prepared by Precision Measurements, Inc, and dated April 15, 2002.

Parcel No. 009-4, 100 Bypass Road; n/f owned by RMG Bypass Road, LC: An approximately 2,300 square-foot portion of the subject property, located along its southwestern boundary line adjoining the CSX Railroad, and delineated on the plat entitled "Jurisdictional Boundary Adjustment Between York County, Virginia and City of Williamsburg, Virginia, Sheet 2 of 2," prepared by Precision Measurements, Inc, and dated April 15, 2002.

Parcel No. 009-4A, 104 Bypass Road; n/f owned by Ralph M Goldstein: An approximately 2,300 square-foot portion of the subject property, located along its southwestern boundary line adjoining the CSX Railroad, and delineated on the plat entitled "Jurisdictional Boundary Adjustment Between York County, Virginia and City of Williamsburg, Virginia, Sheet 2 of 2," prepared by Precision Measurements, Inc, and dated April 15, 2002.

Parcel No. 009-5, 112 Bypass Road; n/f owned by AHK of Williamsburg, LLC: An approximately 2,000 square-foot portion of the subject property, located along its southwestern boundary line adjoining the CSX Railroad, and delineated on the plat entitled "Jurisdictional Boundary Adjustment Between York County, Virginia and City of Williamsburg, Virginia, Sheet 2 of 2," prepared by Precision Measurements, Inc, and dated April 15, 2002.

Parcel No. 009-6, 120 Bypass Road; n/f owned by Green Lane, Inc.: An approximately 700 square-foot portion of the subject property, located along its southwestern boundary line adjoining the CSX Railroad, and delineated on the plat entitled "Jurisdictional Boundary Adjustment Between York County, Virginia and City of Williamsburg, Virginia, Sheet 2 of 2," prepared by Precision Measurements, Inc, and dated April 15, 2002.

On roll call the vote was:

Yea:	(5)	Noll, Bowman, Shepperd, Zaremba, Burgett
Nay:	(0)	

APPLICATION NO. PD-16-05, VILLA DEVELOPMENT, LLC.

Mr. Carter gave a presentation on Application No. PD-16-05 to reclassify approximately 15.3 acres located on the north side of Route 17 approximately 1,240 feet north of its intersection with Cook Road from Limited Business to Planned Development, subject to voluntarily proffered conditions. The Planning Commission considered the application and forwarded it to the Board of Supervisors with a recommendation of approval, and staff recommended approval of the application through the adoption of proposed Ordinance No. 05-11.

Mr. Shepperd referred to the age restriction, and asked if an owner passed away leaving a spouse younger than 62, would the spouse have to move out.

Mr. Carter stated his interpretation would be that someone in that position would not have to move out.

Mr. Barnett discussed the State's Fair Housing Law and the exceptions to those laws.

Mr. Bowman expressed concern about the drainage and traffic safety issues since the project would be next to the high school.

May 17, 2005

Mr. Paul Garman, Mid-Atlantic Commercial, thanked staff for its help and provided background on this planned development. He stated had been learned from previous projects such as Rainbrook Villas and Shady Banks, and this project would provide what the citizens wanted for senior housing in the County. He provided information on what the property could be utilized for, and he encouraged the Board to support the project.

Chairman Burgett then called to order a public hearing on Application No. PD-16-05 that was duly advertised as required by law. Proposed Ordinance 05- is entitled:

AN ORDINANCE TO APPROVE A PLANNED DEVELOPMENT OF
UP TO 76 QUADRUPLEX UNITS IN ACCORDANCE WITH THE
SENIOR HOUSING-INDEPENDENT LIVING DEFINITION AND
PERFORMANCE STANDARDS OF THE YORK COUNTY ZONING
ORDINANCE

Ms. Edna Haggerty, 403 Timberline Loop, stated she was present as a concerned resident and not on behalf of the Rainbrook Villas Condominium Association. She stated the County's zoning office was understaffed with only three in the department, leaving a shortage of personnel to inspect new construction and water problems associated with poor drainage. She stated the property had a long history of drainage problems, and she was in favor of increasing staff to improve inspections. Mrs. Haggerty stated she was in favor of senior housing, but not at the Cook Road location because of the grading and drainage problems.

Mr. William Ambrose, 3802 Mctyres Cove Road, Midlothian, partial owner of the property, stated this project would be an asset and uplift the neighborhood, and the people who would occupy these dwellings were a higher classed citizen and more stable in life. He remarked it would be an asset for the County to have people owning their own property rather than renting, and he did not feel it would be a burden on the County since children were not allowed to live there and would not be attending school in the County. He noted these types of citizens would be the patrons of the small businesses on Route 17.

Mr. Dick Ambrose, 205 Marl Ravine Road, partial property owner, stated the area was in need of a facelift and some beautification, and the citizens who lived nearby had a real need for a neighborhood such as this because they did not want to have to leave the area. He indicated the citizens of the project would be adding customers throughout the year to the Riverwalk Landing project. Mr. Ambrose pointed out the unanimous approval of the Planning Commission, and he asked the Board to support the project.

There being no one else present who wished to speak concerning the subject application, Chairman Burgett closed the public hearing.

Mr. Shepperd agreed there was a need for this type of housing, but stated it would be an adjustment to the Comprehensive Plan buildout, and he would always be leery of that sort of growth. He mentioned he had concern about the 62 year-old age restriction, and he realized this would bring people into an area that was not overly populated

Mrs. Noll agreed with Mr. Shepperd's comments, stating the Board had to be careful about expanding the population more than indicated in the Comprehensive Plan. She stated each development has to stand on its on merit, and the Board has to weigh the benefits of the particular development and decide whether in the long run it was something that the County needed. She stated she would support this application.

Mr. Bowman reiterated his concern about the safety factor and mentioned the plan for VDOT to perform a safety study at the intersection of Falcon and Cook Roads. He indicated he wanted to make sure that when and if the project got started, County staff would be present on site to insure the project moved along with proper inspections and in concurrence with County ordinances.

Mr. Zaremba cited the Board's responsibility to ensure the professional capability in each department to accomplish its mission, and he urged Department Heads to come to the Board if their offices were understaffed.

Chairman Burgett stated if there was a shortage of staff, the Board would know about it through citizen complaints. He indicated this development was perfect for this piece of property, elaborating on its limited commercial value. He acknowledged that citizens aged 62 and older would cause an increase on the demand of County services. He affirmed his support the application.

Mrs. Noll then moved the adoption of proposed Ordinance No. 05-11 that reads:

AN ORDINANCE TO APPROVE A PLANNED DEVELOPMENT OF
UP TO 76 QUADRUPLUX UNITS IN ACCORDANCE WITH THE
SENIOR HOUSING-INDEPENDENT LIVING DEFINITION AND
PERFORMANCE STANDARDS OF THE YORK COUNTY ZONING
ORDINANCE

WHEREAS, Villa Development, LLC has submitted Application No. PD-16-05 which requests to amend the York County Zoning Map by reclassifying approximately 15.3 acres located on the north side of George Washington Memorial Highway (Route 17) approximately 1,240 feet north of its intersection with Cook Road (Route 704) from LB (Limited Business) to PD (Planned Development) subject to voluntarily proffered conditions. The property is bounded by Route 17 to the south, Falcon Road (Route 1254) to the west and north, and Cook Road to the east. Pursuant to Section 24.1-361(c)(2) of the York County Zoning Ordinance, the applicant proposes to develop a 76-unit development of age-restricted (62 and older) quadruplex homes in accordance with the "Senior Housing – Independent Living" definition and performance standards of the Zoning Ordinance. The properties, located at 8926, 8934, and 9000 George Washington Memorial Highway and 401 and 409 Cook Road, are further identified as Assessor's Parcel Nos. 24-80-4, 24-80-5, 24-80-6, 24-23, and 24-25 (GPIN# Q09a-1540-2704, Q09a-1459-2763, Q09a-1399-3125, Q09a-1667-3097, and Q09a-1611-3208); and

WHEREAS, said application has been forwarded to the York County Planning Commission in accordance with applicable procedure; and

WHEREAS, the Planning Commission recommends approval of this application; and

WHEREAS, the York County Board of Supervisors has conducted a duly advertised public hearing on this application; and

WHEREAS, the Board has carefully considered the public comments and Planning Commission recommendation with respect to this application;

NOW, THEREFORE, BE IT ORDAINED by the York County Board of Supervisors this the 17th day of May, 2005, that Application No. PD-16-05 be, and it is hereby, approved to amend the York County Zoning Map by reclassifying from LB (Limited Business) to PD (Planned Development) approximately 15.3 acres located at 8926, 8934, and 9000 George Washington Memorial Highway and 401 and 409 Cook Road, further identified as Assessor's Parcel Nos. 24-80-4, 24-80-5, 24-80-6, 24-23, and 24-25 (GPIN# Q09a-1540-2704, Q09a-1459-2763, Q09a-1399-3125, Q09a-1667-3097, and Q09a-1611-3208), subject to the following conditions:

1. Age Restriction

This Planned Development shall be developed and operated as age-restricted senior housing in accordance with the definition of Senior Housing-Independent Living Facility set forth in Section 24.1-104 of the York County Zoning Ordinance.

2. General Layout, Design, and Density

- a) A site plan, prepared in accordance with the provisions of Article V of the Zoning Ordinance, shall be submitted to and approved by the Department of Environmental and Development Service, Division of Development and Compliance prior to the commencement of any land clearing or construction activities on the site.

said site plan shall be in substantial conformance with the conceptual plan titled "Master Plan #2: Villas at Yorktown, A Planned Community," prepared by C. E. Newbaker Surveying & Planning, Inc. and dated April 18, 2005, except as modified herein. Substantial deviation, as determined by the Zoning Administrator, from the general design and layout as submitted or amended herein shall require resubmission and approval in accordance with all applicable provisions as established by the York County Zoning Ordinance.

- b) The layout and design of this development shall be in conformance with the performance standards for senior housing set forth in Section 24.1-411 of the York County Zoning Ordinance, except as modified herein.
- c) The maximum number of residential units shall be 76.
- d) Street trees at least 1½ inch in diameter shall be provided (or credited for existing trees) at no less than forty-foot (40') intervals along the interior road in the development. Street trees at least 1½ inch in diameter shall be provided (or credited for existing trees) at no less than forty-foot (40') intervals in the median of the boulevard-type entrance on Hampton Highway.
- e) Freestanding signage shall be limited to a single monument-type community identification sign along Falcon Road measuring no greater than 24 square feet in area and six feet (6') in height.

3. Streets and Circulation

- a) Roadway design and construction shall be in substantial conformance with the Development Plan. The design and construction of all streets shall adhere to the street and roadway standards established for public streets by the County and the Virginia Department of Transportation (VDOT). The applicant shall bear responsibility for installing all roadway improvements.
- b) All streets shall be of a curb and gutter design; roll-top curb shall be permissible throughout the development.
- c) In order to provide for safe and convenient pedestrian circulation, the project shall include a four-foot (4') wide sidewalk as shown on the concept plan.
- d) Street lighting shall be provided at each street intersection and at other such locations determined by the subdivision agent to maximize vehicle and pedestrian safety. The design of the street lighting shall be consistent with the design and character of the development.
- e) A right turn radius consistent with the standards of the Virginia Department of Transportation (VDOT) shall be constructed along Falcon Road (Route 1254) at the entrance to the development.

4. Utilities and Drainage

- a) Public sanitary sewer service shall serve this development, the design of which shall be subject to approval by the County Administrator or his designated agent in consultation with the Department of Environmental and Development Services and in accordance with all applicable regulations and specifications. The applicant shall grant to the County all easements deemed necessary by the County for the maintenance of such sewer lines.
- b) A public water supply and fire protection system shall serve the development, the design of which shall be subject to approval by the County Administrator or his designated agent in consultation with the Department of Environmental and Development Services and the Department of Fire and Life Safety in accordance with all applicable regulations and specifications. The applicant shall grant to

the County or the City of Newport News all easements deemed necessary by the County for maintenance of such water lines.

- c) The development shall be served by a stormwater collection and management system, the design of which shall be approved by the County Administrator or his designated agent in consultation with VDOT and in accordance with applicable regulations and specifications. Any easements deemed necessary by the County for maintenance of the stormwater system shall be dedicated to the County; however, the County shall bear no responsibility for such maintenance.
- d) The homeowners' association shall own and be responsible for the perpetual maintenance of all stormwater retention facilities serving the Planned Development.

5. Open Space and Recreation

- a) The location and arrangement of open space shall be generally as depicted on the plan titled "Master Plan #2: Villas at Yorktown, A Planned Community," prepared by C. E. Newbaker Surveying & Planning, Inc. and dated April 18, 2005.
- b) A minimum of 200 square feet of common active/passive outdoor recreation area per dwelling unit shall be provided.
- c) The walking trail surrounding the proposed stormwater pond as depicted on the referenced concept plan shall be constructed of an asphalt surface.
- d) The recreation area and facilities designated shall be developed and available for use on or before the occupancy of the twenty-fourth (24th) unit or by the end of the fifth (5th) year from the start of construction, whichever occurs first.
- e) Landscape buffers no less than fifty feet (50') in width shall be provided along the entire Route 17 and Cook Road frontages of the property. Said buffers shall be left in an undisturbed natural state and supplemented with additional landscaping where clearing has already taken place. This shall not be interpreted to preclude 1) the planting of additional trees, shrubs, or groundcovers, 2) the construction of perimeter fencing and lighting fixtures, 3) limited clearing of underbrush, nuisance plants, and dead or diseased plants and trees, and 4) the perpendicular installation of utilities necessary to serve the development. Any sight line clearing shall be shown on the landscape plan for the site which shall include both plan and perspective views.
- f) Temporary tree protection barriers shall be installed prior to clearing or construction to protect the roots of any existing tree within any required perimeter buffer area even if it requires additional construction offset on property that is not within the buffer.
- g) The location and manner of development for the recreation area shall be fully disclosed in plain language to all home purchasers in this development prior to closing.
- h) All common open space and recreational facilities shall be protected and perpetual maintenance guaranteed by appropriate covenants as required in the York County Zoning Ordinance and submitted with development plans for the project.
- i) All recreational services, facilities, and equipment shall be subject to approval by the Division of Parks and Recreation for their consistency with the applicant's proffered conditions and recreational requirements as listed in the Planned Development regulations in the Zoning Ordinance.

6. Environment

- a) A Natural Resources Inventory, prepared in accordance with the requirements set forth in Section 24.1-372(d) of the Zoning Ordinance, shall be submitted for review and approval concurrent with the site plan submission.
- b) Prior to final plan approval, the applicant shall obtain all wetland permits required by federal and state regulations and submit copies of these permits, or evidence that such permits are unnecessary, to the Zoning Administrator.

7. Proffered Conditions

The reclassification shall be subject to the conditions voluntarily proffered by the property owners in the proffer statement titled "Proposed Proffers by Owners for Application for Property of the Villas at Yorktown, L.L.C. and Villa Development, L.L.C.," signed by Cowles M. Spender and dated April 22, 2005, except as modified herein. Pursuant to Section 24.1-114(e)(1) of the Zoning Ordinance, a certified copy of this ordinance together with a duly signed copy of the proffer statement shall be recorded at the expense of the applicant in the name of the property owner as grantor in the office of the Clerk of the Circuit Court.

8. Restrictive Covenants

Prior to final plan approval, the applicant shall submit restrictive covenants for review by the County Attorney for their consistency with the requirements of Section 24.1-497 of the Zoning Ordinance.

BE IT FURTHER ORDAINED by the Board of Supervisors that, contingent on the Board's approval of Application No. ZT-92-05 as it pertains to Section 24.1-361(c)(2) of the York County Zoning Ordinance, approval of Application No. PD-16-05 shall be subject to the following conditions in addition to those set forth above:

1. Notwithstanding the provisions of Section 24.1-411(e) of the Zoning Ordinance, the fifty-foot (50') landscaped perimeter buffer around the development shall be reduced to no less than twenty-five feet (25') in width along the subject property's western property boundary adjacent to Falcon Road and along the eastern property boundary adjacent to the parcels located at 8918 George Washington Memorial Highway and 307 Cook Road, further identified as Assessor's Parcel Nos. 24-80-3 and 24-22A respectively.
2. Notwithstanding the provisions of Section 24.1-411(f) of the Zoning Ordinance, the normally required twenty-five feet (25') of open landscaped space surrounding each building may be reduced provided, however, that no two buildings within the project shall be located closer to one another than thirty feet (30') and that the minimum building setback from internal streets shall be twenty feet (20').

On roll call the vote was:

Yea: (5) Bowman, Shepperd, Zaremba, Noll, Burgett
 Nay: (0)

APPLICATION NO. UP-656-05, YORK COUNTY LITTLE LEAGUE

Mr. Carter gave a presentation on Application No. UP-656-05 to approve a use permit authorizing the addition of a second baseball field at Zook Field located at 110 Cook Road. The Planning Commission considered the application and forwarded it to the Board of Supervisors with a recommendation of approval, and staff recommended approval of the application through the adoption of proposed Resolution R05-82.

Chairman Burgett called to order a public hearing on Application No. UP-656-05 that was duly advertised as required by law. Proposed Resolution R05-82 is entitled:

A RESOLUTION TO APPROVE AN AMENDMENT TO SPECIAL
USE PERMIT NO. UP-417-91 TO AUTHORIZE THE ADDITION OF
STADIUM-TYPE LIGHTING FIXTURES AND USE OF EXISTING
BASEBALL FACILITIES AFTER DUSK ON PROPERTY LOCATED
AT 110 COOK ROAD

Mr. Wayne Barlow, 104 Emerald Court, gave some background on the York County Little League and stated there was only one lighted field in the County for the 8 to 12 year-old age group. He stated there were about 400 youngsters in that age range who could use the complex with the playing time extended if the ball field was lighted. He noted that a site plan would be submitted for approval which would add a few additional parking spaces.

Mrs. Noll mentioned the approval of a previous application for parking, but nothing was done. She asked if it would be a requirement before the lighting could be installed.

Mr. Barlow indicated if paved parking were installed, it would be a problem for the watershed in the rear of the property. He then discussed the maintenance of the grass, gravel, and the extra parking lot.

Ms. Marge Green, 1919 Old York-Hampton Highway, adjacent property owner to the ball field, stated the description of the water condition was exaggerated because the land was logged, and the topography had been destroyed. She offered five recommendations that were presented at the Planning Commission hearing, and she requested that amendments be made to the Special Use Permit concerning the use of fields, seasons, and times of day. She also requested that Special Use Permit UP-417-92 be enforced for compliance with its terms pertaining to the screening of abutting properties and the maintenance of the trash collection vendor.

There being no one else present who wished to speak concerning the subject application, Chairman Burgett closed the public hearing.

Mr. Bowman stated Ms. Green had some good points that should be considered.

Mr. Shepperd noted the fields had been shielded several years ago, and he asked if this was the County's responsibility.

Mr. Carter explained there was a lack of performance on the initial 1992 use permit requirements and a lack of performance on the County's follow up on inspections.

Mr. Shepperd stated he would be in favor of incorporating Ms. Green's suggestions.

Mr. Carter suggested staff have more time to look over Ms. Green's suggestions and prepare the language to be inserted into the resolution.

Mrs. Noll moved to table proposed Resolution R05-82.

On roll call the vote was:

Yea:	(5)	Shepperd, Zaremba, Noll, Bowman, Burgett
Nay:	(0)	

APPLICATION NO. YVA-20-05, THE FIFES AND DRUMS OF YORKTOWN

Mr. Carter gave a presentation on Application No. YVA-20-05 to authorize the construction of a two-story building to house an office and rehearsal hall for the Fifes and Drums Corps located at 202 Church Street in Yorktown. He stated the Planning Commission considered the application and forwarded it to the Board of Supervisors with a recommendation of approval, and staff recommended approval of the application through the adoption of proposed Resolution R05-83.

Chairman Burgett called to order a public hearing on application YVA-20-05 that was duly advertised as required by law. Proposed Resolution R05-83 is entitled:

A RESOLUTION TO APPROVE A YORKTOWN VILLAGE ACTIVITY
REQUEST TO AUTHORIZE A 3000-SQUARE FOOT REHEARSAL
HALL WITH ACCESSORY OFFICE AND STORAGE AT 202
CHURCH STREET IN THE VILLAGE OF YORKTOWN

There being no one present who wished to speak concerning the subject application, Chairman Burgett closed the public hearing.

Mr. Zaremba then moved the adoption of proposed Resolution R05-83 that reads:

A RESOLUTION TO APPROVE A YORKTOWN VILLAGE ACTIVITY
REQUEST TO AUTHORIZE A 3000-SQUARE FOOT REHEARSAL
HALL WITH ACCESSORY OFFICE AND STORAGE AT 202
CHURCH STREET IN THE VILLAGE OF YORKTOWN

WHEREAS, the Yorktown Fifes and Drums Corps has submitted Application No. YVA-20-05, pursuant to Section 24.1-327(b)(2) of the Zoning Ordinance, to authorize the construction of a 3000-square foot rehearsal hall with accessory office and storage space located at 202 Church Street (Route 1003) and further identified as Assessor's Parcel Nos. 18A-1-32 and 18A-1-32A; and

WHEREAS, said application has been referred to the York County Planning Commission in accordance with applicable procedure; and

WHEREAS, the Planning Commission recommends approval of this application; and

WHEREAS, the York County Board of Supervisors has conducted a duly advertised public hearing on this application; and

WHEREAS, the Board has carefully considered the public comments and Planning Commission recommendation with respect to this application;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this the 17th day of May, 2005, that Application No. UP-656-05 be, and it hereby is, approved to authorize a 3000-square foot rehearsal hall with accessory office and storage space located at 202 Church Street (Route 1003) and further identified as Assessor's Parcel Nos. 18A-1-32 and 18A-1-32A (GPIN Nos. P12c-2482-0270 and P12c-2462-0241); subject to the following conditions:

1. This approval shall authorize the establishment of a 3000-square foot rehearsal hall with accessory office and storage space located at 202 Church Street (Route 1003) and further identified as Assessor's Parcel Nos. 18A-1-32 and 18A-1-32A (GPIN Nos. P12c-2482-0270 and P12c-2462-0241).
2. A site plan, prepared in accordance with the provisions of Article V of the York County Zoning Ordinance, shall be submitted to and approved by the County prior to any site disturbance activities on the site. Said site plan shall be in substantial conformance with the sketch plans submitted by the applicant titled "The Fifes and Drums of Yorktown" dated 5-17-04, prepared by Rickmond Engineering, Inc., and "Fifes and Drums of Yorktown," Sheet S-1, dated 6/1/04, prepared by Bay Design. Building architecture and design shall in substantial conformance with building elevations and floor plans submitted by the applicant dated January 1, 2005. Landscaping shall be in substantial conformance with the landscape plan submitted by the applicant titled "Alternative Planting, Fife & Drum Bldg., Church Street, Yorktown, VA," and dated August 6, 2004. Site plans, building architecture and design, floor plans and landscape plans shall be in substantial conformance with noted plans and elevations except as modified herein or as may be necessary to comply with site plan review requirements and requirements of the National Historic Preservation Act, Section 106.

3. The facility shall be developed in accordance with approval conditions stipulated in Yorktown Village Activity Permit Application No. HYDC-7-05, granted on March 23, 2005 by the Historic Yorktown Design Committee.
4. Any signage associated with the use shall be installed in compliance with all applicable requirements of the Zoning Ordinance.
5. Off-site parking for the facility shall be located within the existing public parking lot located across Church Street on Parcel Nos. 18A-1-38, 18A-1-44 and 18A-1-45.
6. Existing trees on the property shall be preserved as noted on the landscape plan referenced in Condition No. 2 above.
7. The property shall be developed in accordance with terms and conditions set forth in Quitclaim Deed dated August 25, 2003, between the United States of America and the County of York (reference tract 05-167-Easement) recorded as Instrument Number 030028633 at Page 0750 in the Office of the Clerk of the Circuit Court on September 5, 2003.
8. In accordance with Section 24.1-115(b)(7) of the York County Zoning Ordinance, a certified copy of the resolution authorizing this Yorktown Village Activity Permit shall be recorded at the expense of the applicant in the name of the property owner as grantor in the office of the Clerk of the Circuit Court prior to application for site plan approval or issuance of a Certificate of Occupancy, whichever occurs first.

On roll call the vote was:

Yea: (5) Zaremba, Noll, Bowman, Shepperd, Burgett
 Nay: (0)

CITIZENS COMMENT PERIOD

Mr. Raymond Lewis, 298 Adrienne Place, Newport News, who was purchasing land on Baptist Road in York County, referred to a survey of the property that was provided to the Board, asked he asked his sister, Ms. Tramel, to speak on his behalf.

Ms. Camilla Tramel, 3 Crutchfield Drive, Newport News, who was purchasing property at 800 Baptist Road, stated she was hoping to build a home there with her brother and sister. She stated she had been told there were wetlands on her property, but in actuality the property backed up to the watershed management district, and the wetlands were not part of her property, but that of the property behind her. She asked the Board for its help.

Ms. Addie Jeanette Carter, 819 Baptist Road, appeared to apprise the Board of information on the property at 800 Baptist Road, stating it did not have water standing on it. She noted that the water was down on the other end of the property, and Ms. Tramel was having trouble installing a sewer line. She stated the County should be able to go under the road for the utilities. Ms. Carter provided documentation from the Army Corps of Engineers depicting the wetlands.

Mr. Brad Brown, Robert Brown and Associates and Tidewater Development Company, stated he had detailed meetings concerning the application for modification of the Williamsburg Marketcenter greenbelt that was deferred at the Board's April 19 meeting. He stated the conclusion was to do an amendment to the existing stormwater agreement that would address all of the Board's concerns.

Meeting Recessed. At 10:16 p.m. Chairman Burgett declared a short recess.

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Meeting Reconvened. At 10:37 p.m. the meeting was reconvened in open session by order of the Chair.

COUNTY ATTORNEY REPORTS AND REQUESTS

Mr. Barnett had no report at this time.

COUNTY ADMINISTRATOR REPORTS AND REQUESTS

Mr. McReynolds reminded the Board of Student Local Government Day on Tuesday, May 24 at Grafton Middle School. He stated that on May 28 the grand opening of Riverwalk Landing would take place with the ceremony beginning at 10:00 a.m., followed by entertainment throughout the day and fireworks in the evening. He stated the June 7 Board meeting had been changed from 6:00 p.m. to 7:00 p.m. and from the East Room to the Board Room to accommodate the presentations to the incoming and outgoing Youth Commissioners. He noted that a Youth Commission reception would precede the meeting. Mr. McReynolds noted the next regular Board meeting would be held on the 21st of June.

MATTERS PRESENTED BY THE BOARD

Mrs. Noll commended all those who participated in the Relay for Life ceremony.

Mr. Zaremba had no comments to make at this time.

Mr. Bowman had no comments to make at this time.

Mr. Shepperd had no comments to make at this time.

Chairman Burgett discussed the parking of commercial vehicles on streets in Victory Industrial Park. He stated the Board needed to do whatever necessary to get rid of this problem. He then noted he had attended the ribbon cutting ceremony reopening New Quarter Park and stated it was a fabulous facility.

UNFINISHED BUSINESS

APPLICATION NO. SE-16-05, TIDEWATER DEVELOPMENT CO., LLC.

Mr. Carter gave a presentation on proposed Application No. SE-16-05 to authorize land disturbance and clearing within portions of the required 45-foot greenbelt buffer along the Moore-town Road (Route 603) frontage of the proposed Williamsburg Marketcenter property. This application was previously considered by the Board at its April 19 meeting and action was deferred pending receipt of additional information.

Mr. Zaremba mentioned the costs associated with the development and asked if it would be handled between the two developers. He also asked who the mediator would be to determine any damages that might occur.

Mr. Carter stated the County would be the mediator, and he further explained that in the addendum to the agreement, both parties would agree to be responsible for any damage to the existing pond.

Discussion ensued over the addendum and the configuration of the stormwater retention pond.

Mrs. Noll then moved the adoption of proposed Resolution R05-80(R) that reads:

A RESOLUTION TO APPROVE APPLICATION NO. SE-16-05 TO AUTHORIZE DISTURBANCE WITHIN PORTIONS OF A REQUIRED 45-FOOT GREENBELT BUFFER ALONG THE FRONTAGE OF THE PROPOSED WILLIAMSBURG MARKETCENTER PROPERTY LOCATED ON THE EAST SIDE OF MOORETOWN ROAD (ROUTE 603)

WHEREAS, Tidewater Development Company, LLC, has submitted Special Exception Application No. SE-16-05 to request authorization to clear, grade and re-landscape portions of the required 45-foot Greenbelt Buffer along the Mooretown Road frontage of its property, said property being proposed for development as the Williamsburg Marketcenter and identified as Assessor's Parcel Nos. 2-34 and 2-19-B3; and

WHEREAS, pursuant to Sections 24.1-245(c) and (d) of the York County Zoning Ordinance, the Board of Supervisors may authorize the clearing or development of a Greenbelt, subsequent to conducting a public hearing; and

WHEREAS, the Board has conducted a duly advertised public hearing on this application and has given careful consideration to the public comments;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this the 17th day of May, 2005, that Application No. SE-16-05 be, and it is hereby, approved to authorize limited clearing and grading within the required Greenbelt Buffer along the frontage of the subject property, provided that activity is conducted in accordance with the following conditions:

1. The area to remain as undisturbed buffer shall be as delineated on the plan entitled Williamsburg Marketcenter Conceptual Grading Plan for 45' Greenbelt and Outparcels 4-8, prepared by Vanasse Hangen Brustlin, Inc., and dated March 16, 2005 and the supplementary drawings dated March 1, 2005; provided, however, that no disturbance shall be permitted:
 - a. within the Greenbelt between proposed Outparcel Nos. 5 and 6 unless such access drive is authorized in accordance with the terms of the Zoning Ordinance; nor
 - b. within the Greenbelt along the frontage of proposed Outparcel No. 8 unless the associated modifications to the existing stormwater management pond have been approved by the parties to the agreement referenced in Condition No. 1.c., below, and the York County Department of Environmental and Development Services, and provided further that;
 - c. the Board's authorization to fill the Greenbelt portion of proposed Outparcel No. 8 is contingent upon the approval and execution of an addendum to the agreement entitled "Stormwater Retention Pond Construction and Maintenance Agreement" dated February 10, 2004.
2. Finished grades and landscaping of the disturbed areas shall be as generally depicted on the conceptual drawings (Section A-A and B-B cross-sections) prepared by Vanasse Hangen Brustlin as part of the application package.
3. Prior to the commencement of any clearing or grading activity, the applicant shall be responsible for obtaining all necessary site plan and/or land disturbing activity permits in accordance with all applicable requirements of the York County Code.
4. All areas to remain undisturbed shall be clearly delineated with construction fencing prior to commencement of any clearing or grading activity.
5. Disturbed areas of the Greenbelt shall be re-landscaped in accordance with the provisions of Section 24.1-245(c) applicable to un-vegetated and under-vegetated Greenbelts. The landscape plant material selected for placement in the Greenbelt shall be

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subject to approval of the zoning administrator and shall consist of a variety of species intended to reflect and re-establish the native character of the area. The plans for revegetation of the Greenbelt Buffer shall be evidenced by submission of a landscape plan, which shall be subject to review and approval by the Department of Environmental and Development Services.

On roll call the vote was:

Yea: (5) Bowman, Shepperd, Zaremba, Noll, Burgett
Nay: (0)

CONSENT CALENDAR

Mrs. Noll moved that the Consent Calendar be approved as submitted, Item Nos. 11, 12, 13, 14, 15, 16, 17, 18, and 19 respectively.

On roll call the vote was:

Yea: (5) Shepperd, Zaremba, Noll, Bowman, Burgett
Nay: (0)

Thereupon the following resolutions were adopted:

Item No. 11. CHILD DEVELOPMENT RESOURCES, INC. SUPPORT AGREEMENT: Resolution R05-52.

A RESOLUTION TO AUTHORIZE THE COUNTY ADMINISTRATOR TO EXECUTE A SUPPORT AGREEMENT WITH CHILD DEVELOPMENT RESOURCES, INC., A NONPROFIT VIRGINIA CORPORATION, PROVIDING \$170,539 IN ANNUAL FUNDING FOR THE OPERATION OF EARLY CHILDHOOD CARE AND DEVELOPMENTAL SERVICE IN THE GRIFFIN-YEATES CENTER LOCATED ON GOVERNMENT ROAD

WHEREAS, it is in the public interest to continue to make available an early childhood educational experience and positive learning opportunities on behalf of economically disadvantaged and other qualified County citizens; and

WHEREAS, Child Development Resources, Inc., a nonprofit Virginia corporation, has provided such services by operation of a program called First Steps;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this the 17th day of May, 2005, that the County Administrator be, and he is hereby, authorized to execute a Support Agreement approved as to form by the County Attorney with the Child Development Resources, Inc., for the operation of the First Steps program for the period July 1, 2005 until July 1, 2006.

Item No. 12. RENTAL SUBSIDY PROGRAM: Resolution R05-73.

A RESOLUTION TO AUTHORIZE THE COUNTY ADMINISTRATOR TO TAKE ALL ACTIONS NECESSARY TO ACCEPT FUNDING AND CONTINUE TO IMPLEMENT RENTAL SUBSIDY PROGRAMS FUNDED THROUGH THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT AND THE VIRGINIA HOUSING DEVELOPMENT AUTHORITY

WHEREAS, the Board of Supervisors has a long standing commitment to assisting the County's low and moderate income citizens in meeting essential housing needs; and

WHEREAS, the rental subsidy programs funded and administered through the U.S. Department of Housing and Urban Development and the Virginia Housing Development Authority provide annual outside funding that assists eligible County citizens.

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this the 17th day of May, 2005, that the County Administrator be, and he is hereby, authorized to accept funding in the amounts offered the County by the Virginia Housing Development Authority (VHDA), execute any necessary grant agreement, contracts of other documents with VHDA and to participate fully in the Section 8 Voucher Rental Subsidy Programs for FY2006, provided that all documents shall be approved as to form by the County Attorney.

Item No. 13. PUBLIC SEWER EXTENSION AGREEMENT: Resolution R05-91.

A RESOLUTION TO AUTHORIZE AN EXTENSION OF THE COUNTY'S SANITARY SEWER SYSTEM TO A PROPOSED DEVELOPMENT KNOWN AS THE QUARTERS OF YORK COUNTY, AND AUTHORIZING EXECUTION OF THE NECESSARY PUBLIC SEWER EXTENSION AGREEMENT

WHEREAS, Terry/Peterson Residential Eleven, L.L.C. has requested that the County enter into a public sewer extension agreement pursuant to § 18.1-53 (b) of the York County Code to serve 68 new residential units; and

WHEREAS, the plan for the proposed project has been reviewed by the County; and

WHEREAS, prior to final approval of these plans and the initiation of any construction activity, it is necessary that a determination be made as to whether the Board will authorize the extension of the public sewer facilities of the County to serve the proposed development; and

WHEREAS, it has been determined that sufficient capacity exists in the County's existing sewer system to serve the proposed development, or will exist when the facilities proposed by the developer are constructed; and

WHEREAS, in accordance with the terms of Chapter 18.1 of the York County Code the total connection fee to be paid to the County for the proposed extension to serve this development has been determined to be \$81,000.00;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this 17th day of May, 2005, that the Board approves the extension of the County's public sewer system to serve the proposed development, The Quarters of York County, and that the County Administrator be, and he hereby is, authorized to execute a public sewer extension agreement with Terry/Peterson Residential Eleven, L.L.C. for the proposed extension; such agreement to be approved as to form by the County Attorney.

Item No. 14. HISTORIC TRIANGLE WAYFINDING SIGNS SYSTEM: Resolution R05-99.

A RESOLUTION TO AUTHORIZE THE COUNTY ADMINISTRATOR TO EXECUTE AN AGREEMENT WITH JAMES CITY COUNTY AND THE CITY OF WILLIAMSBURG TO CREATE AN ORGANIZATIONAL STRUCTURE FOR IMPLEMENTATION OF THE PROPOSED WILLIAMSBURG AREA WAYFINDING SIGNS SYSTEM

WHEREAS, the Jamestown 2007 Host Committee identified the need to create a system of highway signs to guide visitors to significant destinations within Virginia's Historic Triangle; and

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WHEREAS, the Historic Triangle Wayfinding Task Group, of which York County is a member, was formed to develop a plan for a coordinated system of wayfinding signs to be located in the Historic Triangle; and

WHEREAS, implementation of the wayfinding sign system will be the responsibility of the three jurisdictions – Williamsburg, James City County, and York County – and to effectively manage that process it has been proposed that the three parties enter into a formal agreement to create a three-member “Wayfinding Group”; and

WHEREAS, the proposed organizational structure and responsibilities are set forth in the proposed agreement attached to the County Administrator’s report to the Board dated May 5, 2005; and

WHEREAS, the Board supports the installation of an effective and well-coordinated system of welcoming, orientation and directional signage to assist visitors in reaching the various destinations and attractions within the Historic Triangle;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this the 17th day of May, 2005, that the County Administrator be, and he is hereby, authorized to execute the referenced agreement, subject to approval as to form by the County Attorney.

Item No. 15. PURCHASE AUTHORIZATION: Resolution R05-101.

A RESOLUTION TO AUTHORIZE THE COUNTY ADMINISTRATOR
TO EXECUTE A CONTRACT FOR FINAL DESIGN OF THE EDGE-
HILL NORTH DRAINAGE IMPROVEMENT PROJECT

WHEREAS, it is the policy of the Board of Supervisors that all procurements of goods and services by the County involving the expenditure of \$30,000 or more be submitted to the Board for its review and approval; and

WHEREAS, the County Administrator has determined that the following procurement is necessary and desirable, it involves the expenditure of \$30,000 or more, and that all applicable laws, ordinances, and regulations have been complied with;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this 17th day of May, 2005, that the County Administrator be, and hereby is, authorized to execute procurement arrangements for the following:

	<u>AMOUNT</u>
Edgehill North Drainage Improvement Design	\$119,508

Item No. 16. REFINANCING OF SEWER REVENUE BONDS: Resolution R05-96.

A RESOLUTION TO AUTHORIZE THE ISSUANCE AND SALE OF
SEWER SYSTEM REVENUE REFUNDING BONDS

WHEREAS, the County of York, Virginia (the "County"), has executed and delivered to Wachovia Bank, National Association, as successor trustee by merger (the "Trustee"), a Master Indenture of Trust dated as of December 1, 1999, as previously supplemented (the "Master Indenture"), under which the County has provided for the issuance of its revenue bonds from time to time to provide funds for the financing of expansions and improvements to the County’s sewer system to serve the County; and

WHEREAS, on December 22, 1999, the County issued its \$9,400,000 Sewer System Revenue Bonds, Series 1999 (the "1999 Bonds"); and

WHEREAS, the Board of Supervisors (the "Board") has determined that it is necessary and desirable to issue an additional series of revenue bonds of the County under the Master

Indenture (the "2005 Bonds") to use the proceeds of the sale thereof, along with other available money, if any, to (i) refund all or a portion of the 1999 Bonds maturing on June 1, 2010 through June 1, 2015, inclusive, and on June 1, 2017, June 1, 2019, June 1, 2024 and June 1, 2029 (the "Prior Bonds"), (ii) provide for the required funding of the debt service reserve fund, and (iii) pay the costs of refunding the Prior Bonds and the costs of issuing the 2005 Bonds, including the cost of any municipal bond insurance; and

WHEREAS, the County has determined to sell the 2005 Bonds pursuant to negotiation with one or more underwriters selected by the County Administrator and the Director of Financial and Management Services in consultation with Bassett Financial Management, LLC, the County's financial advisor (the "Financial Advisor"); and

WHEREAS, the foregoing arrangements with respect to the 2005 Bonds will be reflected in the following documents, forms of which on file with the County: (i) the Second Supplemental Indenture of Trust to be dated as of the date approved by the County Administrator (the "Second Supplemental Indenture"), between the County and the Trustee, to which the form of the 2005 Bonds is attached as an exhibit; (ii) the Bond Purchase Agreement to be dated the date approved by the County Administrator (the "Bond Purchase Agreement"), between the County and the underwriter or group of underwriters selected by the County Administrator and the Director of Financial and Management Services; (iii) the County's Continuing Disclosure Agreement to be dated as of the date approved by the County Administrator (the "Continuing Disclosure Agreement"); and (iv) the Escrow Deposit Agreement to be dated as of the date approved by the County Administrator (the "Escrow Deposit Agreement") between the County and the Trustee, as trustee and escrow agent; and

WHEREAS, the Master Indenture and the Second Supplemental Indenture will be referred to collectively herein as the "Indenture" and the Second Supplemental Indenture, the Bond Purchase Agreement, the Continuing Disclosure Agreement and the Escrow Deposit Agreement will be referred to herein as the "Financing Documents;" and

WHEREAS, no public hearing under Section 15.2-2606 of the Code of Virginia of 1950, as amended (the "Virginia Code"), is necessary for the issuance of the 2005 Bonds; and

WHEREAS, unless otherwise defined, each capitalized term used in this resolution shall have the meaning given it in the Master Indenture;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this 17th day of May, 2005, as follows:

1. Authorization of 2005 Bonds and Use of Proceeds. The Board hereby determines that it is advisable to contract a debt and to issue and sell the 2005 Bonds in an aggregate principal amount not to exceed \$8,800,000. The issuance and sale of the 2005 Bonds is hereby authorized upon the terms set forth herein and upon such other terms as may be determined in the manner set forth herein. The proceeds from the issuance and sale of the 2005 Bonds shall be used, along with other available money, if any, to provide funds to refund the Prior Bonds, including funds to pay principal of and premium and interest on the Prior Bonds until their earliest redemption date, to provide for the required funding of the debt service reserve fund, and to pay costs incurred in connection with such refunding and the costs of issuing the 2005 Bonds, including the cost of any municipal bond insurance.

2. Financing Documents. The 2005 Bonds shall be issued pursuant to the Master Indenture and the Second Supplemental Indenture. The Financing Documents are approved. The County Administrator and the Director of Financial and Management Services, or either of them, are authorized to execute on behalf of the County and, if required, the Clerk of the Board is authorized to affix and attest the seal of the County to the Financing Documents in substantially the forms on file with the County, with such changes, insertions or omissions as may be approved by the County Administrator or the Director of Financial and Management Services, whose approval shall be evidenced conclusively by the execution and delivery of the Financing Documents. Each officer of the County is authorized to execute and deliver on behalf of the County such other instruments, documents or certificates, and to do and perform such other things and acts, as they deem necessary or appropriate to carry out the transactions author-

ized by this resolution or contemplated by the 2005 Bonds, the Financing Documents, and all of the foregoing, previously done or performed by such officers of the County, are in all respects approved, ratified and confirmed.

3. Pledge of Revenues. The 2005 Bonds shall be limited obligations of the County and principal of, premium, if any, and interest on the 2005 Bonds shall be payable solely from the revenues derived by the County from its sewer system, as set forth in the 2005 Bonds, the Master Indenture and the Second Supplemental Indenture pursuant to which the 2005 Bonds will be issued, and from other funds that have been or may be pledged for such purpose under the terms and conditions of the Master Indenture and the Second Supplemental Indenture. Nothing in this resolution, the 2005 Bonds, the Master Indenture or the Second Supplemental Indenture shall be deemed to pledge the full faith and credit of the County to the payment of the 2005 Bonds.

4. Details of and Sale of Bonds. The 2005 Bonds shall be issued upon the terms established pursuant to this resolution, the Master Indenture and the Second Supplemental Indenture. The 2005 Bonds shall be issued in fully registered form, shall be dated such date as the Director of Financial and Management Services may approve, shall bear interest payable semi-annually at the rates established as set forth below, shall be in the denominations of \$5,000 each or whole multiples thereof and shall be numbered from R-1 upwards consecutively.

The Board authorizes the sale of the 2005 Bonds to the underwriter or group of underwriters selected by the County Administrator and the Director of Financial and Management Services.

The County Administrator and the Director of Financial and Management Services, or either of them, are authorized and directed to execute and deliver the Bond Purchase Agreement providing for the sale and delivery of the 2005 Bonds. The County Administrator and the Director of Financial and Management Services, or either of them, are authorized and directed to determine and approve the final details of the 2005 Bonds, including, without limitation, the aggregate principal amount of the 2005 Bonds, the optional and mandatory redemption provisions and sale price of the 2005 Bonds, provided that (i) the true interest cost of the 2005 Bonds, excluding any bond insurance premium, shall not exceed 4.95%; (ii) the 2005 Bonds shall have a final maturity no later than December 1, 2030; (iii) the sale price of the 2005 Bonds, excluding any original issue discount, shall not be less than 99% of par, and (iv) no optional redemption premium shall exceed two percent (2%) of the principal amount of any 2005 Bonds to be redeemed. The approval of such officer shall be evidenced conclusively by the execution and delivery of the Bond Purchase Agreement.

5. Preparation and Delivery of the 2005 Bonds. The Chairman of the Board is hereby authorized and directed to execute the 2005 Bonds by manual or facsimile signature, the County's seal to be affixed thereto or a facsimile thereof printed thereon and attested by the Clerk of the Board, to deliver the 2005 Bonds to the Trustee, as Paying Agent, for authentication, and to cause the 2005 Bonds so executed and authenticated to be delivered to or on the account of the underwriter or group of underwriters for the 2005 Bonds upon payment of the purchase price therefore as provided in the Bond Purchase Agreement.

6. Disclosure Documents. The County Administrator, the Director of Financial and Management Services and such officers and agents of the County as either of them may designate, are hereby authorized and directed to prepare, execute and deliver, as appropriate, a preliminary official statement, a final official statement, and such other disclosure documents as may be necessary to expedite the sale of the 2005 Bonds. Such preliminary official statement, final official statement, and such other disclosure documents shall be published in such publications and distributed in such manner, including by electronic distribution, and at such times as the County Administrator, the Director of Financial and Management Services or such officers or agents of the County as either of them may designate, shall determine. The County Administrator and the Director of Financial and Management Services, or either of them, are authorized and directed to deem the Preliminary Official Statement "final" for purposes of Securities and Exchange Commission Rule 15(c)2-12 and to execute and deliver the final Official Statement in substantially the form of the Preliminary Official Statement, with such changes, insertions or omissions as the executing officer may approve.

7. Redemption of Prior Bonds. The County Administrator is authorized and directed to

determine which of the Prior Bonds, if any, shall be refunded. The Board authorizes and directs the County Administrator and such officers and agents of the County as he may designate to call each of the Prior Bonds to be refunded for optional redemption on their earliest redemption date. The redemption proceedings, including the giving of redemption notices to the holders of the refunded Prior Bonds, is authorized and shall be done pursuant to the terms of the Master Indenture and the Prior Bonds. The County Administrator and the Director of Financial and Management Services, or either of them, is authorized to execute and deliver the Escrow Deposit Agreement providing for the irrevocable deposit of a portion of the proceeds of the 2005 Bonds in an amount sufficient, when invested as set forth in the Escrow Deposit Agreement, to provide for the payment of the principal of and premium and interest on the refunded Prior Bonds.

8. Municipal Bond Insurance. The County Administrator is authorized to obtain, on behalf of the County, municipal bond insurance to guarantee the payment of principal of and interest on the 2005 Bonds if the County Administrator, in collaboration with the Financial Advisor and the underwriter or group of underwriters selected by the County Administrator and Director of Financial and Management Services, determines that selling the 2005 Bonds insured by a policy would be in the best interest of the County. The County Administrator is hereby authorized to agree to such changes to the form of the Second Supplemental Indenture, the Preliminary Official Statement and the 2005 Bonds as he may consider appropriate to comply with the requirements of the bond insurer.

9. Non-Arbitrage Certificate and Tax Covenants. The County Administrator and the Director of Financial and Management Services, or either of them, are authorized and directed to execute a Non-Arbitrage Certificate and Tax Covenants setting forth the expected use and investment of the proceeds of the 2005 Bonds and containing such covenants as may be necessary in order to comply with the provisions of the Internal Revenue Code of 1986, as amended ("Code"), including the provisions of Section 148 of the Code and applicable regulations relating to "arbitrage bonds." The Board covenants on behalf of the County that the proceeds from the issuance and sale of the 2005 Bonds will be invested and expended as set forth in the County's Non-Arbitrage Certificate and Tax Covenants, to be delivered simultaneously with the issuance and delivery of the 2005 Bonds and that the County shall comply with the other covenants and representations contained therein.

10. Further Actions. The County Administrator and the Director of Financial and Management Services, and such officers and agents of the County as either of them may designate, are authorized and directed to take such further action as they deem necessary or appropriate regarding the issuance and sale of the 2005 Bonds, including without limitation the preparation, execution and delivery of instruments, agreements and documents related to the issuance and sale of the 2005 Bonds, the purchase of municipal bond insurance, surety bonds or policies or other credit enhancement for the 2005 Bonds and the acquisition of qualified defeasance securities (either on the open market or directly from the U.S. Treasury) relating to the investment of the proceeds of the 2005 Bonds. All actions previously taken by such officers and agents in connection with the issuance and sale of the 2005 Bonds are hereby ratified and confirmed.

11. Filing of Resolution. The appropriate officers or agents of the County are authorized and directed to file a certified copy of this resolution with the Circuit Court of York County, Virginia pursuant to Section 15.2-2607 of the Virginia Code.

12. Effective Date. This resolution shall take effect immediately.

Item No. 17. ADDITIONAL FUNDING FOR THE VIRGINIA COMPREHENSIVE SERVICES ACT: Resolution R05-102.

A RESOLUTION TO AUTHORIZE AND APPROPRIATE ADDITIONAL FUNDS FOR FISCAL YEAR 2005 FOR THE COSTS OF THE VIRGINIA COMPREHENSIVE SERVICES ACT FOR AT-RISK YOUTH AND FAMILIES PROGRAM

May 17, 2005

WHEREAS, the Comprehensive Services Act for At-Risk Youth and Families (CSA), adopted by the Virginia General Assembly, requires local government to provide certain services to troubled youth as defined by the Virginia Department of Social Services and the special education programs of the public school divisions; and

WHEREAS, in meeting all such requirements, the County of York provides only those services that are mandated by the CSA and serves only those youth and families that are defined by the Act as mandated populations and does not provide any services that would be classified as discretionary under the Act; and

WHEREAS, it has been determined that an additional \$75,914 is necessary for the required local match and these funds are available from funds carried forward from previous years; and

WHEREAS, these costs are not discretionary but rather are mandated by the Commonwealth, and it is therefore necessary to authorize additional funds for the payment of such expenditures through the end of the current fiscal year;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this 17th of May, 2005, that \$75,914 be, and hereby is, appropriated in the General Fund for the local match for the Fiscal Year 2005 Comprehensive Services Act.

Item No. 18. TRANSPORTATION AGREEMENT: Resolution R05-51.

A RESOLUTION TO AUTHORIZE THE COUNTY ADMINISTRATOR TO EXECUTE AN AGREEMENT WITH THE YORK COUNTY SCHOOL BOARD FOR TRANSPORTATION OF CHILDREN PARTICIPATING IN THE HEAD START PROGRAM AND PROGRAMS OPERATED BY THE DIVISION OF PARKS AND RECREATION

WHEREAS, the York County Board of Supervisors operates a Head Start program for income eligible York County preschoolers and their families; and

WHEREAS, York County Board of Supervisors operates recreation programs for its citizens; and

WHEREAS, children are transported to and from County or School sites and the safest method of transportation is by school bus

NOW, THEREFORE BE IT RESOLVED by the York County Board of Supervisors this the 17th day of May, 2005 that the County Administrator be, and he is hereby, authorized to execute for and on behalf of the Board an agreement with the York County School Board, substantially in the same form transmitted to the Board by report of the County Administrator dated April 20, 2005, including necessary amendments thereto, for the provision of transportation of children participating in the Head Start and Parks and Recreation programs; provided that such agreement and all such amendments shall be approved as to form by the County Attorney.

Item No. 19. POTENTIAL ZONING ORDINANCE TEXT AMENDMENT: Resolution R05-104.

A RESOLUTION TO SPONSOR AN APPLICATION TO AMEND CHAPTER 24.1, ZONING, YORK COUNTY CODE, TO ALLOW CERTAIN CONCESSIONS FOR THE WIDTH OF FRONT LANDSCAPE YARDS AND SIGN PLACEMENT FOR PROPERTIES THAT ABUT UNUSUALLY WIDE EXPANSES OF UNUSED HIGHWAY RIGHT-OF-WAY

WHEREAS, it has come to the attention of the Board of Supervisors that the normally applicable front landscape yard and sign placement standards may create hardships for busi-

nesses located along primary highways having unusually wide expanses of unused right-of-way between the travel lane and the front property line of such parcels; and

WHEREAS, the Board wishes to consider establishing opportunities for relief from the normally applicable standards in cases where such highways are not programmed or planned for widening; and

WHEREAS, in the interest of good zoning practice the Board wishes to sponsor an application to allow these proposed amendments to be reviewed and considered in accordance with applicable procedures for zoning ordinance text and map amendments;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this the 17th day of May, 2005 that it does hereby sponsor an application for amendment of Chapter 24.1, Zoning, of the York County Code to consider the proposed amendment set forth below.

BE IT STILL FURTHER RESOLVED that the proposed amendment be, and it is hereby, referred to the York County Planning Commission for review, public hearing and recommendation in accordance with applicable procedures.

Add new Section 24.1-223.1, as follows:

Section 24.1-223.1. Special requirements adjacent to unused rights-of-way

In the case of a parcel abutting a primary system highway that is not planned for widening in the current Virginia Department of Transportation Six-Year Plan or in the current Regional Transportation Plan, if the front property line of said parcel is 50 feet or more from the edge of the existing pavement the 20-foot front landscaped yard required by section 24.1-244 may be reduced to five feet, provided that the Virginia Department of Transportation will allow the landscape planting requirements specified by section 24.1-242 to be met by plantings placed in the right of way, and the 10-foot setback for signs required by section 24.1-702 may be waived and the sign may be located at the front property line or, in the event the Virginia Department of Transportation authorizes such placement through a land lease or permit arrangement, may be located within 10 feet of the front property line of the parcel and within the VDOT right-of-way. Should such lease/permit be terminated by VDOT, the property owner shall be responsible for relocating the sign to comply with all applicable sign setback standards then in effect.

CLOSED MEETING. At 10:57 p.m. Mr. Zaremba moved that the meeting be convened in Closed Meeting pursuant to Section 2.2-3711(a)(1) of the Code of Virginia pertaining to appointments to Boards and Commissions

On roll call the vote was:

Yea:	(5)	Zaremba, Noll, Bowman, Shepperd, Burgett
Nay:	(0)	

Meeting Reconvened. At 11:04 p.m. the meeting was reconvened in open session by order of the Chair.

Mrs. Noll moved the adoption of proposed Resolution SR-1 that reads:

A RESOLUTION TO CERTIFY COMPLIANCE WITH THE FREE-
DOM OF INFORMATION ACT REGARDING MEETING IN CLOSED
MEETING

WHEREAS, the York County Board of Supervisors has convened a closed meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of the

May 17, 2005

Virginia Freedom of Information Act; and

WHEREAS, Section 2.2-3711.1 of the Code of Virginia requires a certification by the York County Board of Supervisors that such closed meeting was conducted in conformity with Virginia law;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this the 17th day of May, 2005, hereby certifies that, to the best of each member's knowledge, (1) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies, and (2) only such public business matters as were identified in the motion convening the closed meeting were heard, discussed, or considered by the York County Board of Supervisors.

On roll call the vote was:

Yea: (5) Noll, Bowman, Shepperd, Zaremba, Burgett
Nay: (0)

APPOINTMENTS TO THE PLANNING COMMISSION

Mr. Zaremba moved the adoption of proposed Resolution R05-95 that reads:

A RESOLUTION TO APPOINT TWO MEMBERS TO THE YORK COUNTY PLANNING COMMISSION

WHEREAS, Andrew A. Simasek (District 1) and Alexander T. Hamilton (District 2) will complete their current terms on the York County Planning Commission on June 30, 2005; and

WHEREAS, the Board has reviewed the applications of the candidates eligible for appointment to these positions;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this the 17th day of May, 2005, that the following individuals be, and they are hereby, appointed to serve on the York County Planning Commission for terms to begin on July 1, 2005 and expire June 30, 2009:

District 1: Christopher Abel

District 2: Alexander Hamilton

On roll call the vote was:

Yea: (5) Bowman, Shepperd, Zaremba, Noll, Burgett
Nay: (0)

APPOINTMENTS TO THE SENIOR CENTER OF YORK BOARD

Mrs. Noll moved the adoption of proposed Resolution R05-97 that reads:

A RESOLUTION TO APPOINT AND REAPPOINT REPRESENTA- TIVES TO THE SENIOR CENTER OF YORK BOARD

BE IT RESOLVED by the York County Board of Supervisors this 17th day of May, 2005, that the following individuals be, and they are hereby, reappointed to the Senior Center of York Board, such terms to begin on July 1, 2005, and expire June 30, 2009:

Winifred B. Bragg
Lydia L. Griffin
Thomas D. McNamara

JoAnne F. Foudrait
William S. Massey
Mildred J. Russinko

Anne B. Smith
Walter C. Zaremba

Charlotte W. Tyeryar

BE IT FURTHER RESOLVED that the following individuals be, and they are hereby, appointed as a representatives to the Senior Center of York Board for a term of four years, such term to begin July 1, 2005, and expire June 30, 2009:

Rosetta C. Billups
Josh Lyons
Margaret G. Rowe
Sherrell D. Swanson

Ida F. Cross
Robert T. Neely
Myrtle I. Smith

On roll call the vote was:

Yea: (5) Shepperd, Zaremba, Noll, Bowman, Burgett
Nay: (0)

APPOINTMENT TO THE COLONIAL SERVICES BOARD: Resolution R05-92.

A RESOLUTION TO APPOINT A YORK COUNTY REPRESENTATIVE TO THE COLONIAL SERVICES BOARD

BE IT RESOLVED by the York County Board of Supervisors this 17th day of May, 2005, that Ronald Wallace be, and he is hereby, appointed as a York County representative to the Colonial Services Board to complete the unexpired term of Donald E. Willis, which expires June 30, 2005, and to a full term of three years, such term to begin July 1, 2005 and expire June 30, 2008.

On roll call the vote was:

Yea: (5) Zaremba, Noll, Bowman, Shepperd, Burgett
Nay: (0)

Meeting Adjourned. At 11:10 p.m. Chairman Burgett moved that the meeting be adjourned sine die.

James O. McReynolds, Clerk
York County Board of Supervisors

James S. Burgett, Chairman
York County Board of Supervisors